

# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

E. HANLIN BAVELY, CHAPTER 7  
TRUSTEE OF AAA SPORTS, INC.

§ Case No. 4:22-cv-00093

Plaintiff,

## JURY TRIAL DEMANDED

V.

PANINI AMERICA, INC.

CC

**Defendant.**

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## **COMPLAINT**

Plaintiff E. Hanlin Bavelly (“Plaintiff” or “Trustee”), the chapter 7 bankruptcy trustee of AAA Sports, Inc. (“AAA Sports”), files this Complaint against Defendant Panini America, Inc. (“Defendant” or “Panini”) and alleges as follows:

## I. INTRODUCTION

1. Defendant Panini has participated in an ongoing pattern and practice of infringing AAA Sports' intellectual property rights, including valid, federally registered copyrights for its sports trading cards. Defendant Panini has unlawfully reproduced, distributed, adapted, and publicly displayed AAA Sports' copyrighted works and unauthorized derivative works based on the same. In addition, Defendant Panini has knowingly, and with the intent to induce, enable, facilitate, or conceal infringement, (1) provided copyright management information ("CMI") that is false and/or (2) distributed or imported for distribution, CMI that is false. Defendant Panini has also, without the authority of AAA Sports and knowing or having reasonable grounds to know that it will induce, enable, facilitate, or conceal infringement, (1) intentionally removed and/or altered

AAA Sports' CMI, (2) distributed or imported for distribution CMI knowing that such information has been removed or altered without AAA Sports' authority, and/or (3) distributed or imported for distribution copies of AAA Sports' copyrighted works knowing that CMI has been removed and/or altered without the authority of AAA Sports. Such widespread use of illegal copies of AAA Sports' trading cards has caused and continues to cause significant harm to AAA Sports and its intellectual property.

2. Plaintiff seeks a permanent injunction and damages from Defendant Panini for, among other things, direct and indirect copyright infringement in violation of the Copyright Act ("Copyright Act") set forth in 17 U.S.C. §§ 501-505 and violations of the Digital Millennium Copyright Act ("DMCA") set forth in 17 U.S.C. §§ 1202-1203.

## **II. PARTIES**

3. Plaintiff E. Hanlin Bavelly is the chapter 7 bankruptcy trustee of AAA Sports with an address of Kenwood Commons, 8280 Montgomery Road, Ste. 110, Cincinnati, Ohio 45236.

4. AAA Sports is a corporation organized under the laws of the State of Ohio with its principal place of business located at c/o E. Hanlin Bavelly, Chapter 7 Trustee, Kenwood Commons, 8280 Montgomery Road, Ste. 110, Cincinnati, Ohio 45236.

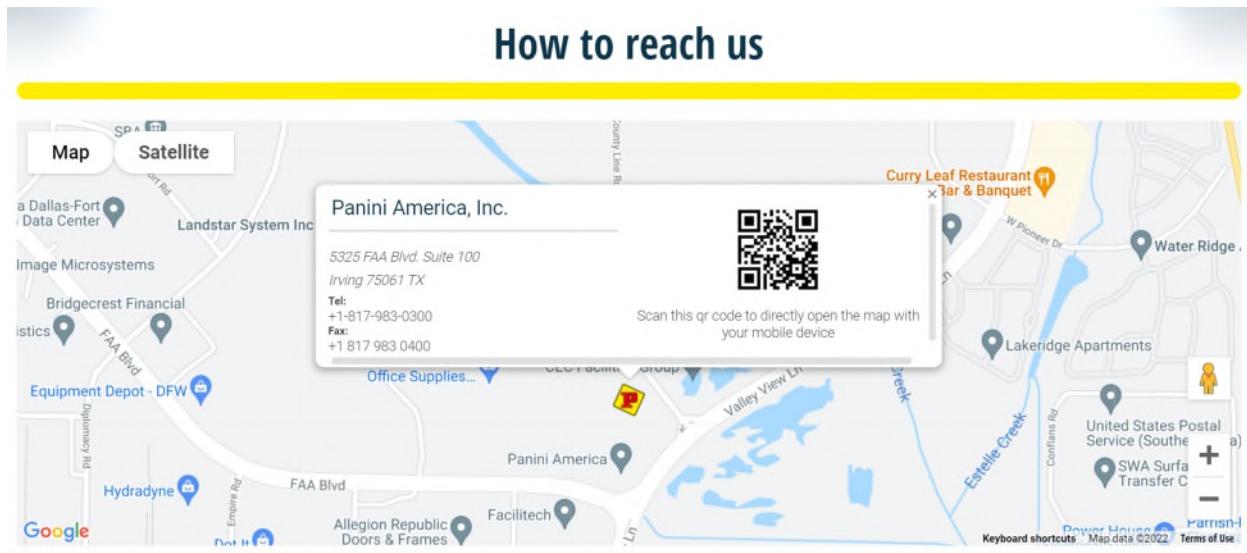
5. Defendant Panini is a Delaware corporation with a principal place of business located at 5325 FAA Boulevard, Suite 100, Irving, Texas 75061. Defendant can be served through its registered agent at Corporation Service Company d/b/a CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

## **III. JURISDICTION AND VENUE**

6. This is an action for copyright infringement in violation of the Copyright Act, violations of the DMCA, and related causes of action arising from Defendant Panini's unlawful use of AAA Sports' copyrights arising under the law.

7. This Court has subject matter jurisdiction over the claims set forth in this Complaint pursuant to 28 U.S.C. §§ 1331 (federal subject matter jurisdiction) and 1338 (copyright actions), and supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1337(a).

8. Venue in this action lies within this Court pursuant to 28 U.S.C. §§ 1331(b)(1) and 1333 because Defendant Panini resides in this judicial district. For example, Panini indicates on its website that it conducts business at the address provided above, which is within this Court's jurisdiction:<sup>1</sup>



9. By way of further example, the Texas Collin County tax records indicate that Defendant Panini owns property at 204 E Bethany Dr., Allen TX 75002, which is located within this Court's jurisdiction:<sup>2</sup>

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<sup>1</sup> Panini corporate website, "How to reach us," <https://www.paninigroup.com/en/us/how-to-reach-us?place=1> (last accessed Feb. 4, 2022).

<sup>2</sup> Exhibit 1, Collin County Property Tax Record, available at <http://taxpublic.collincountytx.gov/webcollincounty/accountsearch.htm> (last accessed Feb. 4, 2022).

**Property Tax Record**

Kenneth L. Maun  
Collin County Tax Assessor Collector  
2300 Bloomdale Rd. Ste 2324  
McKinney, TX 75071  
Ph: 972-547-5020

|  |                  |                  |
|--|------------------|------------------|
| Account: P900020809691   | Acres: 0.000     | 2021 Values      |
| APD: 2642624   | Yr Built: 0      | Personal 2559730 |
| Location: 0000204E BETHANY DR  | Sq Ft: 0         | 2021 Exemptions  |
| Legal: BPP AT 204 E BETHANY DR CONSIG<br>NED INVENTORY @ GC PACKAGING      | Def. Start: NONE |                  |
| Owner: PANINI AMERICA INC<br>5325 F A BLVD STE 100<br>IRVING TX 75061-3608 | Def. End: NONE   |                  |
|  | Roll: P          |                  |
|  | UDI: 0%          |                  |

**New Search**

Click on the e-Statement button to view Total Tax Due  
Click on the e-Payment button to make a credit card or eCheck payment.

| Current status     |      | All years        |             | Tax Estimator    |             | e-Payment   |             | e-Statement      |              |
|--------------------|------|------------------|-------------|------------------|-------------|-------------|-------------|------------------|--------------|
| Year               | Unit | Levy Amount      | Amount Paid | Levy Due         | Penalty     | Interest    | Col Penalty | Total Due        | Receipt Date |
| 2021               | 01   | 4,302.57         | 0.00        | 4,302.57         | 0.00        | 0.00        | 0.00        | 4,302.57         | --           |
| 2021               | 06   | 12,030.73        | 0.00        | 12,030.73        | 0.00        | 0.00        | 0.00        | 12,030.73        | --           |
| 2021               | 39   | 36,010.28        | 0.00        | 36,010.28        | 0.00        | 0.00        | 0.00        | 36,010.28        | --           |
| 2021               | 60   | 2,079.06         | 0.00        | 2,079.06         | 0.00        | 0.00        | 0.00        | 2,079.06         | --           |
| <b>2021 Totals</b> |      | <b>54,422.64</b> | <b>0.00</b> | <b>54,422.64</b> | <b>0.00</b> | <b>0.00</b> | <b>0.00</b> | <b>54,422.64</b> |              |

10. Venue is also proper under 28 U.S.C. § 1331(b)(2) because all or a substantial part of the events, acts or omissions giving rise to the claims, including acts of infringement, occurred in this judicial district in which Defendant Panini is subject to personal jurisdiction.

#### IV. FACTUAL BACKGROUND

##### A. AAA Sports

11. AAA Sports was founded in 1986 as a family business by Douglas Atkins Sr. and his three sons, Douglas Atkins Jr., Mark Atkins, and Daniel Atkins, who had the idea and borrowed \$2,000 from their father to start the business.<sup>3</sup> Initially, the company began displaying and supplying sports cards from various publishers at small, local baseball card shows and gradually moved to regional ones. After some success, the company opened a retail card shop in Hamilton, Ohio.

12. As the business grew, AAA Sports expanded to include a wholesale division that supplied retail card shops with cards, posters, and card supplies such as plastic sheets, binders, top loads, 800 count boxes, and 5,000 count boxes.

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<sup>3</sup> See, e.g., Exhibit 2, "Wild Card," The Cincinnati Enquirer (Jan. 25, 1993).

13. From there, the company expanded into the mail order business through advertising in Sport Collectors Digest, which targeted both wholesale and retail customers, and Sports Net, a wholesale bulletin board. Around the same time, AAA Sports expanded its presence at card shows, including participation in New York, Atlantic City, Detroit, Chicago, St. Louis, Dallas, San Francisco, Indianapolis, Louisville, Lexington, Grand Rapids, Nashville, Knoxville, Chattanooga, New Orleans, and Charlotte, among other places. On December 27, 1988, the company was formally incorporated in Ohio as AAA Sports Inc. and later started doing business as “Wild Card.”

14. Throughout this time, the Atkins brothers dreamed about being able to make their own sports cards. They constantly brainstormed on their many long trips and used their growing knowledge of the field to develop many innovative and creative ideas that they would soon bring into fruition.

15. After the start of the Gulf War in January 1991, AAA Sports created its first trading cards that incorporated a yellow ribbon symbol honoring American troops. AAA Sports received permission from Operation Yellow Ribbon to use the yellow ribbon symbol. The 60-card set was called “Operation Yellow Ribbon Desert Storm Trading Cards” and was printed using a four-color process, laminated, and packaged with highly sought-after special foil cards.<sup>4</sup> The cards were highly successful, yielding substantial sales for AAA Sports in the first quarter of 1991. AAA Sports donated a portion of its gross sales to Operation Yellow Ribbon.

16. The Operation Yellow Ribbon cards launched AAA Sports from a dealer/distributor into a trading card manufacturer. At that point, AAA Sports was ready to launch a revolutionary idea that the Atkins brothers had developed over several years. This new concept

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<sup>4</sup> See, e.g., Exhibits 57-58, Retail Postings of Operation Yellow Ribbon, eBay (Web Page capture Feb. 8, 2022).

incorporated stripes on the face of sports cards, which ultimately became known as the logo and symbol of AAA Sports' own trading cards called: "Wild Card." The stripes were very innovative and became the first multi-card parallel in trading card history.<sup>5</sup> Indeed, multi-card parallels are a key driver in the trading card business today. AAA Sports continued to create many new and innovative concepts that helped shape the trading card industry into what it is today.<sup>6</sup>

17. AAA Sports continued to create sports cards using its stripe concept and, in 1991, launched "Wild Card Collegiate Football Cards" at the National Sports Cards Convention in Anaheim, California. AAA Sports applied for and obtained a license agreement from the Collegiate Licensing Company ("CLC"), becoming CLC's first trading card licensee. Although there were other competitors in the industry, AAA Sports paid over \$300,000.00 in royalties to CLC, whereas the other competitors paid nothing – indicating AAA Sports' success. AAA Sports produced 20,000 ten-box cases, selling out within nine (9) days of the convention and generating substantial sales revenue. The cards were printed using a four-color process with UV protectant coating, including images and designs on both the front and back of the cards. Along with its regular cards, one of every 100 cards Wild Card produced were hot stamped with a numerical designation of 5, 10, 20, 50, 100 and 1000, making them an even more rare collectable item.<sup>7</sup>

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<sup>5</sup> See, e.g., Exhibit 3, 1992 *Wild Card 1000 Stripe Stat Smasher*, Brett Favre Football Card #SS-23, <https://www.psacollector.com/brett-favre-football-card/> ("In case you haven't discovered yet, Brett Favre cards with the Wild Card logo and a stripe with a foil number on it is very collectible.... As for the Stat Smasher insert, it's just a very fascinating design that utilizes chromium technology and has lots of colors. This parallel was fairly advanced for the time and it was executed flawlessly.") (Web Page capture Feb. 3, 2022).

<sup>6</sup> See, e.g., Exhibit 3, 1991 *Wild Card Draft Picks 100 Stripe*, Brett Favre Football Rookie Card #119, <https://www.psacollector.com/brett-favre-football-card/> (touting the high quality of Wild Card collectible card and high sale price at auction) (Web Page capture Feb. 3, 2022).

<sup>7</sup> See, e.g., Exhibit 4, "Cincinnati firm proud of its stripes," The Cincinnati Enquirer (Jan. 25, 1993); Exhibit 5, "Sleeper Football Cards: 2011 Upper Deck Football Stripe Redemptions,"

18. Under its Wild Card brand, AAA Sports also introduced the novel concept of the “Surprise Card,” the first ever “redemption” card. AAA Sports also announced the number of cases it produced and numbered each case to give collectors confidence in the quantity produced – an innovative concept that had never been done before.

19. Due to the success of the Wild Card Collegiate Football Cards, AAA Sports applied for and was granted licenses by the National Football League Players Association (“NFLPA”) and National Football League Properties, Inc. (“NFL Properties”) to produce National Football League (“NFL”) trading cards. AAA Sports’ revenue from the sale of these cards was substantial in 1991 and 1992. AAA Sports’ Wild Card brand continued to expand, adding licensed sets from collegiate basketball and World Football League. It also produced a political trading card set called “Decision 92.”

20. In 1992, AAA Sports introduced “Stat Smashers” sports cards under its Wild Card brand. Stat Smashers was a truly unique and revolutionary trading card and took the industry by storm. Stat Smashers made its debut in the 1992 NFL Football edition, pushing the release to an instant sellout and becoming the talk of the industry. In 1993, AAA Sports released another Stat Smashers series, solidifying AAA Sports Wild Card’s fame for its Stat Smashers cards. The Stat Smashers became the most recognizable and most premium insert set ever produced at the time.

21. Since its initial release, Stat Smashers has been known as an iconic card in the trading card industry, and forever cemented in the minds of collectors as cards authored by AAA

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The Cardboard Connections (Apr. 20, 2011), <https://www.cardboardconnection.com/sleeper-football-cards-2011-upper-deck-football-stripe-redemptions> (Web Page capture Feb. 8, 2022).

Sports Wild Card.<sup>8</sup> No previous card like it had ever been seen before. As a result, Stat Smashers has come to be uniquely known and associated with AAA Sports and its Wild Card name, design, and symbol.

22. For nearly the past thirty years, AAA Sports Wild Card's Stat Smashers has withstood the test of time. Stat Smashers has been and continues to be one of the most sought-after trading cards by collectors. The Stat Smashers cards include now Hall of Fame players such as Joe Montana, Jerry Rice, Deion Sanders, Barry Sanders, Brett Favre, Dan Marino, Bruce Smith, and many other greats. Finding and acquiring a Stat Smashers card of these players is considered a "must" for many collectors. Notably, recent listings of AAA Sports Wild Card's Stat Smashers have included prices of nearly \$10,000 for a single card.<sup>9</sup> Accordingly, AAA Sports Wild Card's Stat Smashers has gained tremendous industry fame and has remained a fan favorite for almost thirty years.

23. Other AAA Sports cards include Stripes, Box Card, Case Card, Hat Card, Stat Smashers, Red Hot Rookies, Field Force, Running Wild, Back to Back, Super Chrome, Super Chrome Rookies, and Bomb Squad series. Over 400,000 collectors have traded and/or redeemed Wild Cards with AAA Sports Wild Card Trade Center and it is estimated that Wild Card's fan base exceeds one million collectors.

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<sup>8</sup> See, e.g., Exhibit 6, "10 Insert Sets that Changed Card Collecting Forever," The Cardboard Connection (Jul. 16, 2013), <https://www.cardboardconnection.com/10-insert-sets-that-changed-the-way-we-collect> (Web Page capture Feb. 8, 2022).

<sup>9</sup> Exhibit 7, <https://www.ebay.com/itm/154339133128?mkcid=1&mkrid=711-53200-19255-0&siteid=0&campid=5338231036&mkevt=1> (showing AAA Sports' Barry Sanders Stat Smashers card for sale for \$9,999.99) (Web Page capture Jan. 4, 2022).

**B. AAA Sports' Copyrighted Works**

24. AAA Sports is the author and owner of the copyrights in its many trading cards, including 166 cards it created, authored, published, sold, and distributed under its Wild Card Stat Smashers series. These cards include the following copyrights registered with the United States Copyright Office (all 166 AAA Sports Wild Card's Stat Smashers collectively referred to hereafter as the "Copyrighted Works" or "Works"):

| Title                                      | Registration Number |
|--|---------------------|
| Barry Sanders Wild Card <sup>10</sup>      | VA0002-285-039      |
| Deion Sanders Wild Card <sup>11</sup>      | VA0002-285-035      |
| Emmitt Smith Wild Card <sup>12</sup>       | VA0002-285-030      |
| Jerry Rice Wild Card <sup>13</sup>         | VA0002-285-026      |
| Joe Montana Wild Card (1992) <sup>14</sup> | VA0002-285-025      |
| Joe Montana Wild Card (1993) <sup>15</sup> | VA0002-285-023      |
| Steve Young Wild Card <sup>16</sup>        | VA0002-285-020      |

25. AAA Sports has received a Certificate of Registration from the Register of Copyrights for each of the products listed above. *See Exhibit 15.*

<sup>10</sup> Exhibit 8, front and back images of Barry Sanders Wild Card Copyrighted Work (in Plaintiff's possession) ("Barry Sanders AAA Sports Copyrighted Work").

<sup>11</sup> Exhibit 9, front and back images of Deion Sanders Wild Card Copyrighted Work (in Plaintiff's possession) ("Deion Sanders AAA Sports Copyrighted Work").

<sup>12</sup> Exhibit 10, front and back images of Emmitt Smith Wild Card Copyrighted Work (in Plaintiff's possession).

<sup>13</sup> Exhibit 11, front and back images of Jerry Rice Wild Card Copyrighted Work (in Plaintiff's possession) ("Jerry Rice AAA Sports Copyrighted Work").

<sup>14</sup> Exhibit 12, front and back images of Joe Montana 1992 Wild Card Copyrighted Work (in Plaintiff's possession) ("Joe Montana '92 AAA Sports Copyrighted Work").

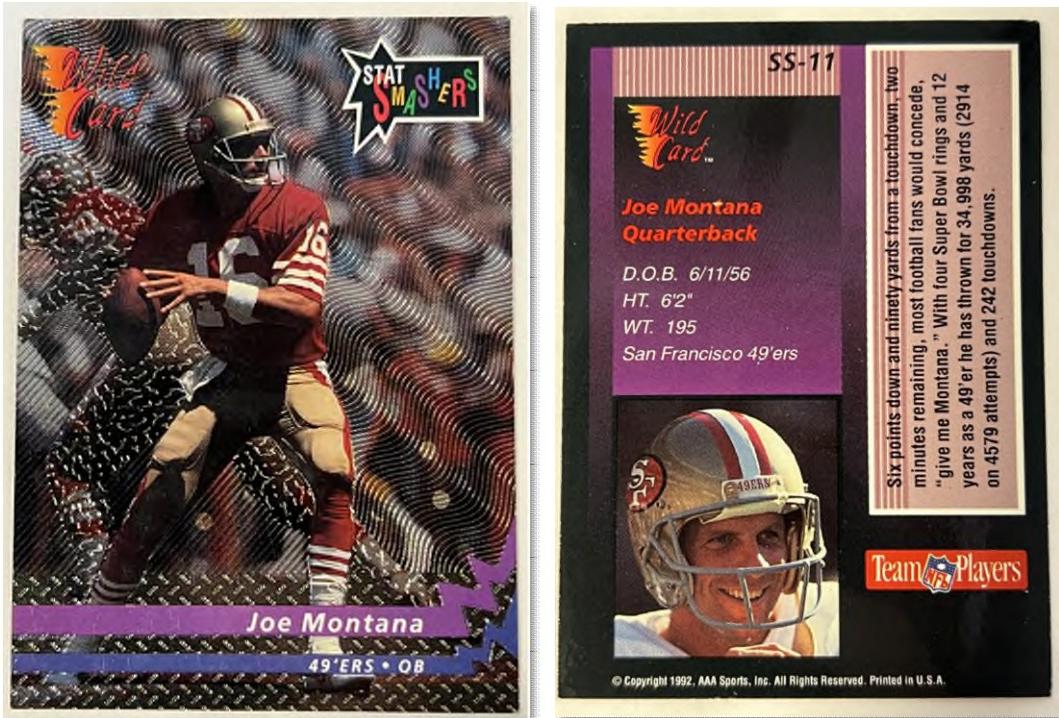
<sup>15</sup> Exhibit 13, front and back images of Joe Montana 1993 Wild Card Copyrighted Work (in Plaintiff's possession) ("Joe Montana '93 AAA Sports Copyrighted Work").

<sup>16</sup> Exhibit 14, front and back images of Steve Young Wild Card Copyrighted Work (in Plaintiff's possession) ("Steve Young AAA Sports Copyrighted Work").

26. Examples of the Copyrighted Works are shown below:



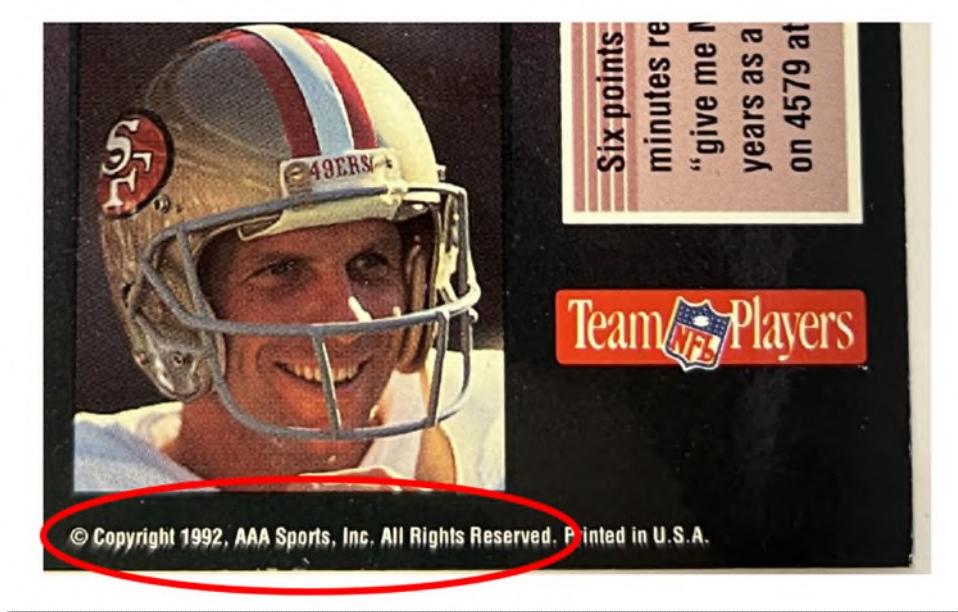
Exemplary Barry Sanders AAA Sports Copyrighted Work, front and back of card (Exhibit 8).



Exemplary Joe Montana '92 AAA Sports Copyrighted Work, front and back of card (Exhibit 12).

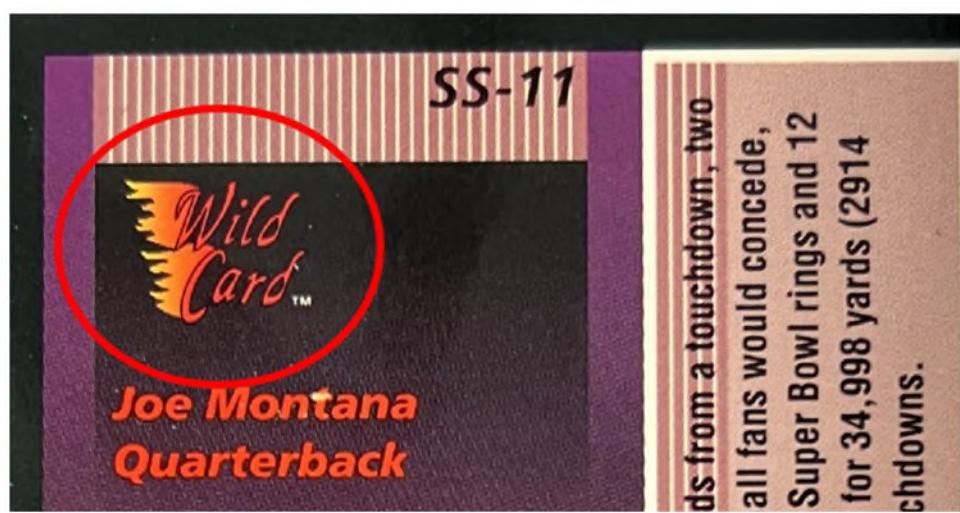
27. AAA Sports' copyright registrations are currently valid, subsisting, and in full force and effect.

28. AAA Sports has taken appropriate measures to protect its copyrights and place the public on notice thereof. All of AAA Sports' Copyrighted Works bear the notice "© Copyright [year], AAA Sports, Inc. All Rights Reserved." See, for example, the following:



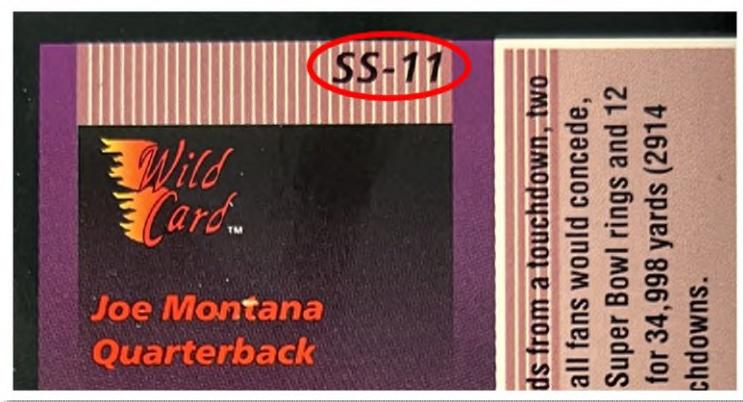
Joe Montana '92 AAA Sports Copyrighted Work, excerpt of back of card (annotation added) (Exhibit 12).

29. All of AAA Sports' Copyrighted Works at issue bear the notice "Wild Card" and "Stat Smashers" – CMI that is associated with AAA Sports. See, for example, the following:

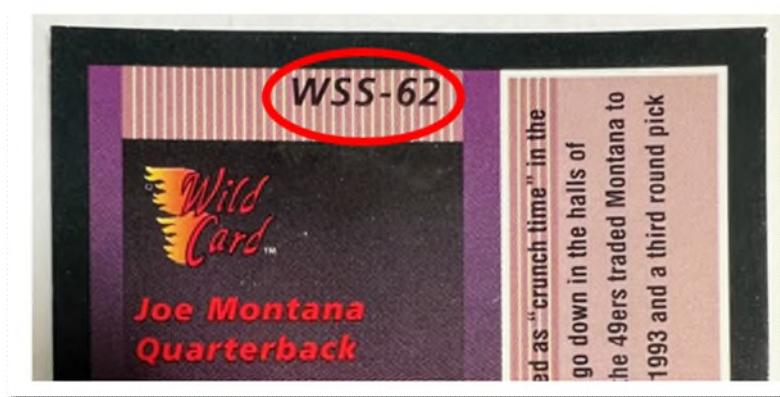


Joe Montana '92 AAA Sports Copyrighted Work, excerpt of front and back of card (annotations added) (Exhibit 12).

30. Each AAA Sports Copyrighted Work includes a unique number based on AAA Sport Wild Card's numbering system for its Stat Smashers cards that serves as CMI. Specifically, AAA Sports' CMI includes the "SS" designation, which stands for "Stat Smashers," as well as the "SS" designation with a prefix indicating a regional division, such as the Western Division or "WSS" or Central Division or "CSS." See, for example, the following:



Joe Montana '92 AAA Sports Copyrighted Work, excerpt of back of card (annotation added) (Exhibit 12).



Joe Montana '93 AAA Sports Copyrighted Work, excerpt of back of card (annotation added) (Exhibit 13).

31. Each AAA Sports Copyrighted Work includes AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card's Stat Smashers and which constitutes CMI. See, for example, the following:



Joe Montana '92 AAA Copyrighted Work (Exhibit 12) on left and Barry Sanders AAA Sports Copyrighted Work (Exhibit 8) on right, front of cards (annotations added).

32. AAA Sports has never authorized Defendant Panini to copy or reproduce the Copyrighted Works or any other AAA Sports product, in violation of AAA Sports' copyrights.

33. The Copyrighted Works have been for sale since their initial release, continue to be on sale in secondary markets and are known to AAA Sports' customers, fans, and others as sports cards that are associated with and authored by AAA Sports.

34. For example, the Copyrighted Works may be found for sale on COMC.com, a marketplace for buying and selling sports cards. See, e.g., Exhibit 16, <https://www.comc.com/Cards,=wild+card+stat+smashers> (showing approximately 150 search results for “Wild Card Stat Smashers”) (Web Page capture Jan. 4, 2022).

35. COMC.com posts all cards on eBay. *See, e.g.*, Exhibit 17, <https://www.ebay.comitm/232924990363> (showing AAA Sports cards for sale) (Web Page capture Jan. 4, 2022). Other individuals and entities also post AAA Sports cards on eBay. *See, e.g.*, Exhibit 7, <https://www.ebay.comitm/154339133128?mkcid=1&mkrid=711-53200-19255-0&siteid=0&campid=5338231036&mkevt=1> (showing AAA Sports Wild Card's Barry Sanders Stat Smashers card for sale for approximately \$10,000) (Web Page capture Jan. 4, 2022).

36. By way of further example, AAA Sports cards are also available for sale on Collectors.com, a marketplace for sale of collectible items, including sports cards. *See, e.g.*, Exhibit 18, <https://www.collectors.com/trading-cards/wild-card-wild-card-stat-smashers/54104> (showing approximately 445 search results for "Wild Card Stat Smashers") (Web Page capture Feb. 4, 2022).

37. Trading Card Database also provides the AAA Sports Wild Card's Stat Smashers for sale. *See, e.g.*, Exhibit 19, <https://www.tcdb.com/Checklist.cfm/sid/33626/1992-Wild-Card---Stat-Smashers> (showing approximately 50 search results for "Wild Card Stat Smashers") (Web Page capture Jan. 4, 2022).

38. Beckett Collectibles, LLC, a publisher of magazines and other publications of sports collectibles, continues to rate and make available the AAA Sports Wild Card's Stat Smashers. *See, e.g.*, Exhibit 20, <https://www.beckett.com/search/?term=wild+card+stat+smasher> (showing approximately 602 search results for "Wild Card Stat Smashers") (Web Page capture Jan. 4, 2022).

39. Professional Sports Authenticator, a large and trusted card grading service known in the industry, has and continues to grade AAA Sports Wild Card's Stat Smashers available for sale. *See, e.g.*, Exhibit 21, <https://www.psacard.com/pop/football-cards/1992/wild-card-stat->

[smashers/54104](#) (showing 1992 Wild Card Stat Smashers grades for approximately 578 cards) (Web Page capture Jan. 4, 2022).

40. Accordingly, AAA Sports' customers and fans continue to identify and associate AAA Sports with its Copyrighted Works.

### C. The Bankruptcy Proceeding

41. Due to circumstances beyond its control, AAA Sports became a pawn in a chess match between NFL Properties and the NFLPA, which had both provided licenses to AAA Sports. NFL Properties and the NFLPA became involved in a lawsuit over free agency in *McNeil v. NFL*.<sup>17</sup> The NFLPA received a substantial amount of royalties from sports trading cards, which (i) served as the main source of its income and (ii) was used to fund free agency litigation against the NFL. To thwart NFLPA's ability to pursue free agency litigation, NFL Properties developed a strategy to cutoff the NFLPA's income from trading card royalties. The strategy included NFL Properties luring several of the league's superstars, including John Elway, Dan Marino, Michael Irvin, Troy Aikman, and several others, into diverting their licensing rights to the NFL Properties from the NFLPA. NFL Properties referred to this group as "The Quarterback Club." By 1992, NFL Properties had succeeded in signing over 700 players by offering them guaranteed payments for doing so.

42. The NFL Properties' agreement with the Quarterback Club included licenses to five new companies, which flooded the market with sports card products. However, the NFLPA's contract with AAA Sports would not allow these superstar players to be included in card sets. Once retailers discovered that players from the Quarterback Club were not included in Wild Card's

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<sup>17</sup> See Exhibit 22, Summary account of the disagreement, <https://nflpa.com/about/history/1990s-growth-of-the-union> (Web Page capture Feb. 4, 2022).

products, they cancelled large orders and returned purchases, resulting in millions of dollars of lost sales for AAA Sports Wild Card. Additionally, AAA Sports Wild Card could not get relief from the minimum guarantee in its contracts with NFL Properties or the NFLPA.

43. Due to the millions of dollars of cancellations and returns, combined with lack of relief from NFL Properties and the NFLPA, in February of 1994, AAA Sports filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), commencing a bankruptcy case in the United States Bankruptcy Court for the Southern District of Ohio (the “Bankruptcy Court”). The bankruptcy case ultimately was converted to a case under chapter 7 of the Bankruptcy Code.

44. On January 31, 1996, the Office of the United States Trustee appointed Plaintiff as interim chapter 7 trustee for AAA Sports’ bankruptcy estate.

45. On October 2, 2000, the Bankruptcy Court entered an order discharging the Trustee, and on that same day the chapter 7 bankruptcy case was closed.

46. On September 22, 2021, the Office of the United States Trustee filed a motion to reopen the chapter 7 bankruptcy case, which was granted by the Bankruptcy Court on October 20, 2021.

47. On October 26, 2021, the Trustee was reappointed as chapter 7 trustee of AAA Sports’ bankruptcy estate.

48. The Trustee brings the present Action, as a fiduciary of AAA Sports’ bankruptcy estate, against Defendant Panini, to maximize the value of AAA Sports’ assets.

## **V. GENERAL ALLEGATIONS OF COPYRIGHT INFRINGEMENT**

49. Upon information and belief, Defendant Panini has and continues to unlawfully reproduce, distribute, adapt, and publicly display AAA Sports’ Copyrighted Works. AAA Sports

has discovered a number of infringing acts, including, but not limited to, those described in the following paragraphs.

50. Based upon Defendant Panini's general disregard for AAA Sports' intellectual property rights, AAA Sports has been forced to bring this action to preserve and protect its intellectual property rights, as well as to protect its customers who legitimately purchase and trade AAA Sports' Copyrighted Works from those who choose to ignore the rights of the company.

**A. Panini's Unauthorized Copying of AAA Sports' Copyrighted Works**

51. Upon information and belief, on or about June 2020, Panini began publication, and in August of 2020 commenced sales, of nearly identical copies of AAA Sports Wild Card's Stat Smashers sports cards. Upon information and belief, Panini makes such unauthorized copies in various forms, including physical trading cards, digital trading cards, printing plates, and other printed publications. Examples of Panini's unauthorized copying of AAA Sports Wild Card's Stat Smashers sports cards are discussed below.

**1. Unauthorized Copying of AAA Sports Wild Card's Stat Smashers in Physical Form**

52. Upon information and belief, on or about August 2020, Defendant Panini began sale of physical sports cards based on unauthorized copying of AAA Sports' Copyrighted Works.<sup>18</sup> Upon information and belief, Panini makes the infringing physical trading cards available for sale as special inserts to its so called "Certified" card releases, including the "2020 Panini Certified Football" card releases. Upon information and belief, Panini also makes each individual infringing physical trading card available in factory-sealed packages. The infringing inserts and factory-

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<sup>18</sup> See, e.g., Exhibit 23, 2020 Panini Sell Sheet in digital form, "Panini America Delivers Detailed First Look at the Upcoming 2020 Certified Football" (published June 19, 2020), [https://blog.paniniamerica.net/wp-content/uploads/2020/06/Certified\\_Hobby\\_Low.pdf](https://blog.paniniamerica.net/wp-content/uploads/2020/06/Certified_Hobby_Low.pdf) (Web Page capture Feb. 9, 2022).

sealed cards are collectively referred to herein as the “2020 Panini Infringing Cards.” Panini sells the 2020 Panini Infringing Cards under AAA Sports’ CMI, “Stat Smashers.”

53. Upon information and belief, the 2020 Panini Infringing Cards include at least 25 different sports cards that are nearly identical or substantially similar to AAA Sports’ Copyrighted Works, including their design, layout, compilation, and other creative features and elements.

54. Upon information and belief, Panini has made, sold, and/or distributed many copies of each of the 2020 Panini Infringing Cards as special inserts to its “Certified” card releases in physical form. Discovery is expected to disclose the exact number of physical copies Panini has made, sold, and/or distributed of each of the 2020 Panini Infringing Cards.

55. The 2020 Panini Infringing Cards include those for the following players:<sup>19</sup>

| Infringing Card No. | Player              | Team                 |
|---------------------|---------------------|----------------------|
| 1                   | Bruce Smith         | Buffalo Bills        |
| 2                   | Patrick Mahomes II  | Kansas City Chiefs   |
| 3                   | Lamar Jackson       | Baltimore Ravens     |
| 4                   | Barry Sanders       | Detroit Lions        |
| 5                   | Tom Brady           | Tampa Bay Buccaneers |
| 6                   | Aaron Rodgers       | Green Bay Packers    |
| 7                   | Christian McCaffrey | Carolina Panthers    |
| 8                   | Jerry Rice          | San Francisco 49ers  |

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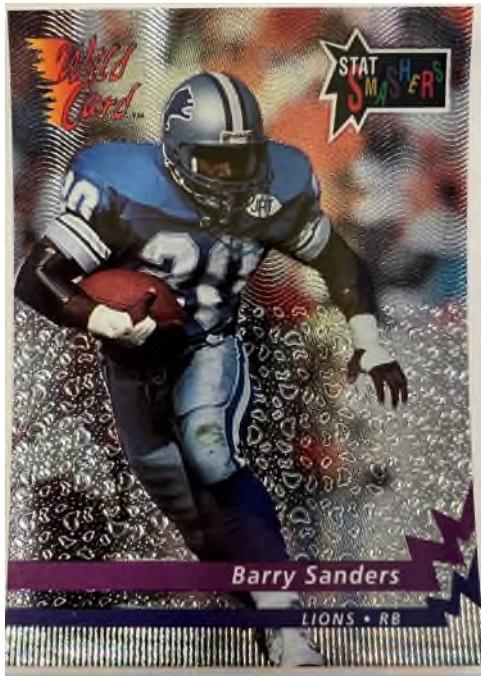
<sup>19</sup> Exhibit 24, Panini Checklist Search, <https://www.paniniamerica.net/checklist.html> (Web Page capture Feb. 3, 2022); *see also* Exhibit 25, “2020 Panini Certified Football Checklist, Team Set Lists and Details,” available at <https://www.beckett.com/news/2020-panini-certified-football-cards/> (Web Page capture Jan. 4, 2022); Exhibit 26, “2020 Panini Certified Football Cards,” available at <https://www.cardboardconnection.com/2020-panini-certified-football-nfl-cards> (Web Page capture Jan. 4, 2022).

| Infringing Card No. | Player          | Team                 |
|---------------------|-----------------|----------------------|
| 9                   | Brian Mitchell  | Philadelphia Eagles  |
| 10                  | Marcus Allen    | Los Angeles Raiders  |
| 11                  | Travis Kelce    | Kansas City Chiefs   |
| 12                  | George Kittle   | San Francisco 49ers  |
| 13                  | Ezekiel Elliott | Dallas Cowboys       |
| 14                  | Josh Jacobs     | Las Vegas Raiders    |
| 15                  | Michael Thomas  | New Orleans Saints   |
| 16                  | Julio Jones     | Atlanta Falcons      |
| 17                  | Chris Godwin    | Tampa Bay Buccaneers |
| 18                  | Russell Wilson  | Seattle Seahawks     |
| 19                  | Peyton Manning  | Denver Broncos       |
| 20                  | Joe Montana     | San Francisco 49ers  |
| 21                  | Julius Peppers  | Carolina Panthers    |
| 22                  | Steve Young     | San Francisco 49ers  |
| 23                  | Michael Vick    | Atlanta Falcons      |
| 24                  | Deion Sanders   | Dallas Cowboys       |
| 25                  | Drew Brees      | New Orleans Saints   |

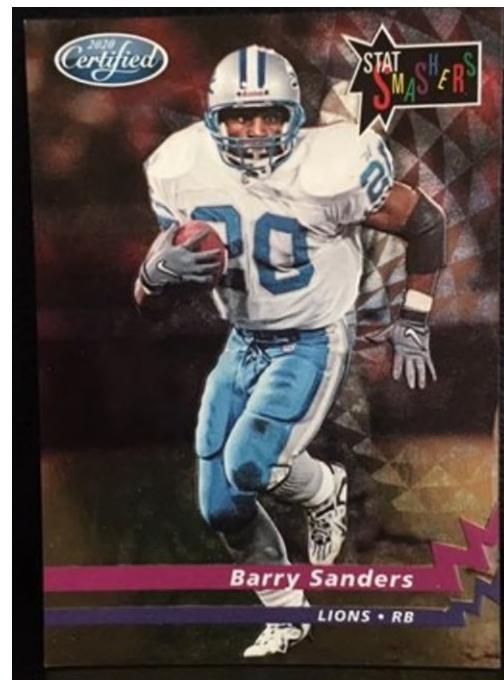
56. Upon information and belief, Panini had access to the AAA Sports Copyrighted Works and used those Works to generate the 2020 Panini Infringing Cards. For example, the following comparisons of AAA Sports' Copyrighted Works with the 2020 Panini Infringing Cards demonstrate that Panini had access to the Copyrighted Works and that the 2020 Panini Infringing Cards are substantially similar to the Copyrighted Works.

57. An example comparison of the 2020 Panini Infringing Card for player Barry Sanders<sup>20</sup> shows at least substantial similarity with the Barry Sanders AAA Sports Copyrighted Work for the same player:

Front of Cards



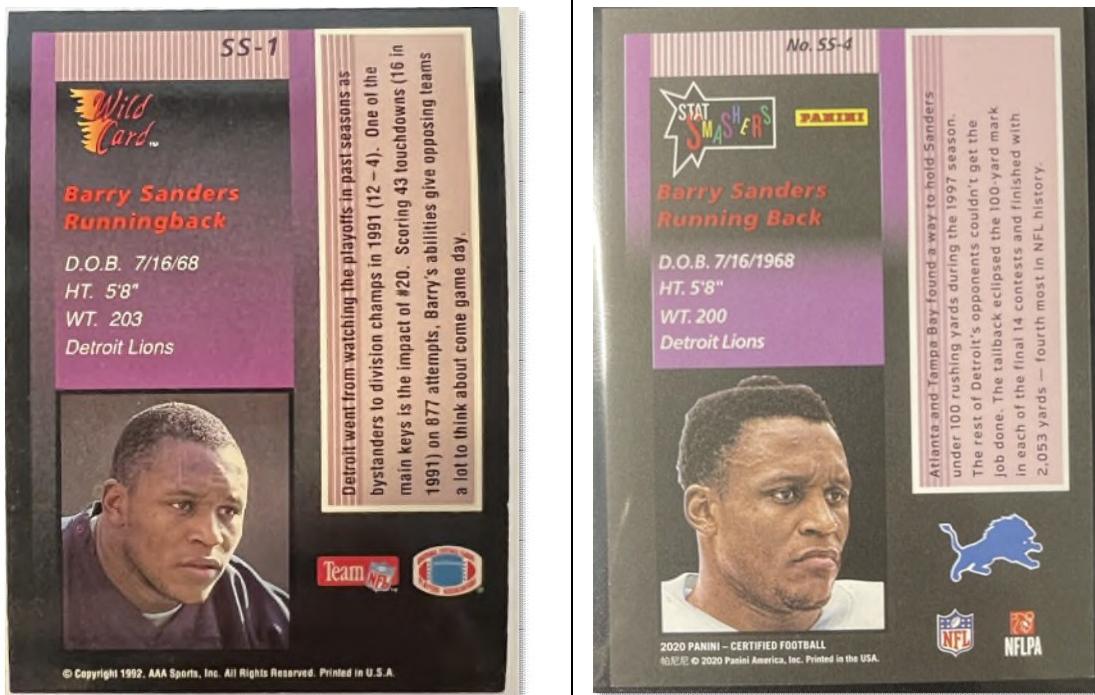
Barry Sanders AAA Sports Copyrighted Work (Exhibit 8).



Barry Sanders 2020 Panini Infringing Card (Exhibit 27).

<sup>20</sup> Exhibit 27, Panini Barry Sanders infringing front of card image obtained from <https://cardsandstuff.net/football-2020-panini-certified-stat-smash-20201209182353321.html> (Web Page capture Jan. 4, 2022); Exhibit 28, Panini Barry Sanders infringing back of card image obtained from [https://www.ebay.com/itm/304339392055?mkcid=16&\\_trksid=p2047675.l2557&mrid=711-127632-2357-0&nma=true&si=T%252Fu3qaf9Q54RN6N%252Fh4vJ5Jy5A4E%253D&orig\\_cvip=true&nordt=true&rt=nc](https://www.ebay.com/itm/304339392055?mkcid=16&_trksid=p2047675.l2557&mrid=711-127632-2357-0&nma=true&si=T%252Fu3qaf9Q54RN6N%252Fh4vJ5Jy5A4E%253D&orig_cvip=true&nordt=true&rt=nc) (Web Page capture Feb. 7, 2022).

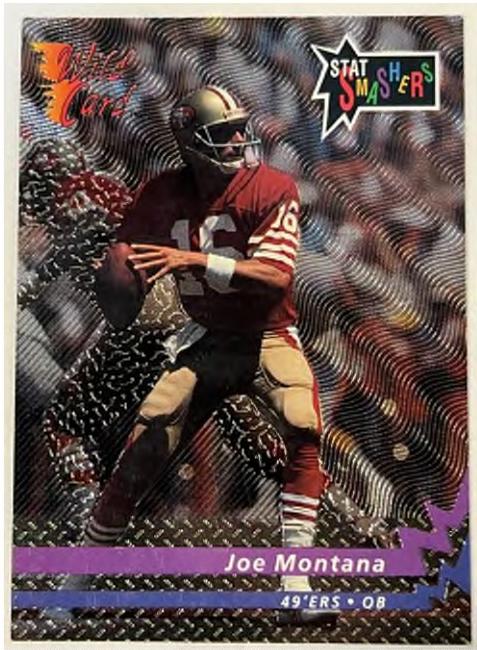
Back of Cards



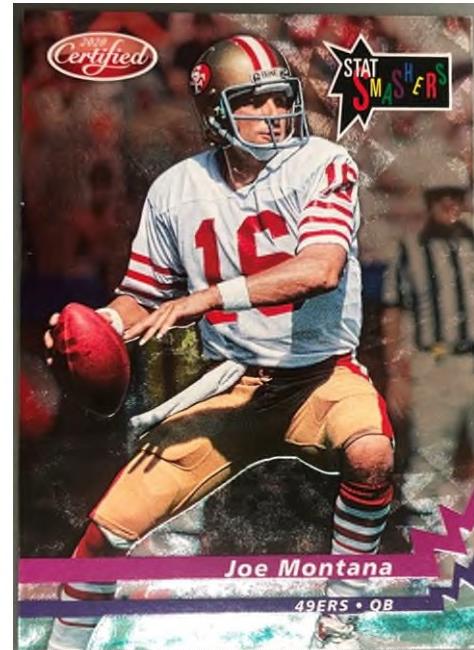
58. Another example comparison of the 2020 Panini Infringing Card for player Joe Montana<sup>21</sup> shows at least substantial similarity with the Joe Montana '92 and Joe Montana '93 AAA Sports Copyrighted Works for the same player:

<sup>21</sup> Exhibit 29, 2020 Joe Montana Panini Infringing Card image obtained from <https://www.tcdb.com/ViewCard.cfm/sid/241523/cid/15072613/2020-Panini-Certified---Stat-Smashers-SS-20-Joe-Montana?PageIndex=1> (Web Page capture Feb. 7, 2022).

Front of Cards

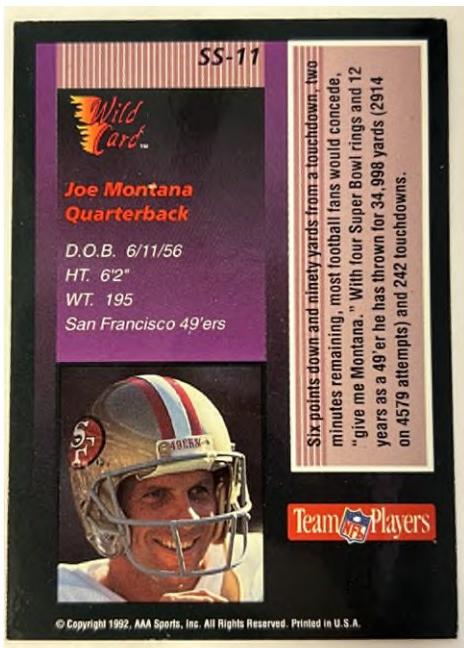


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12).

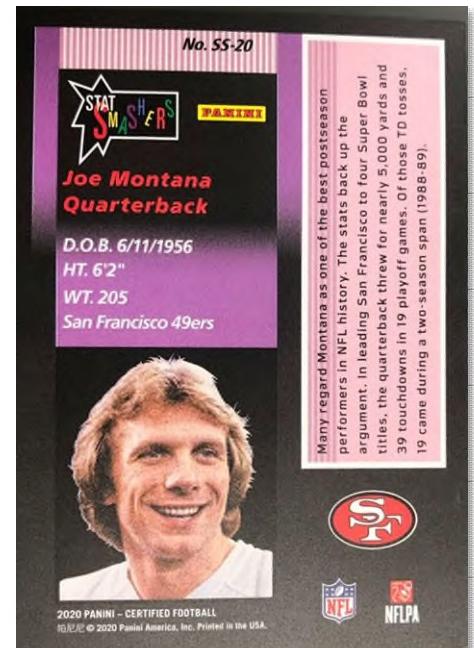


Joe Montana 2020 Panini Infringing Card (Exhibit 29).

Back of Cards

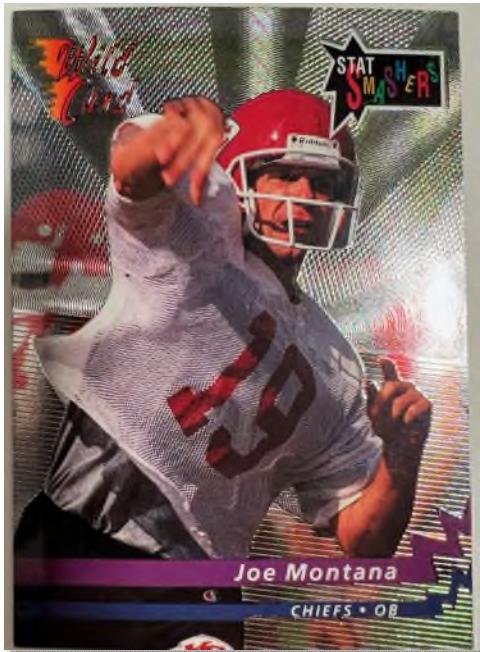


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12).

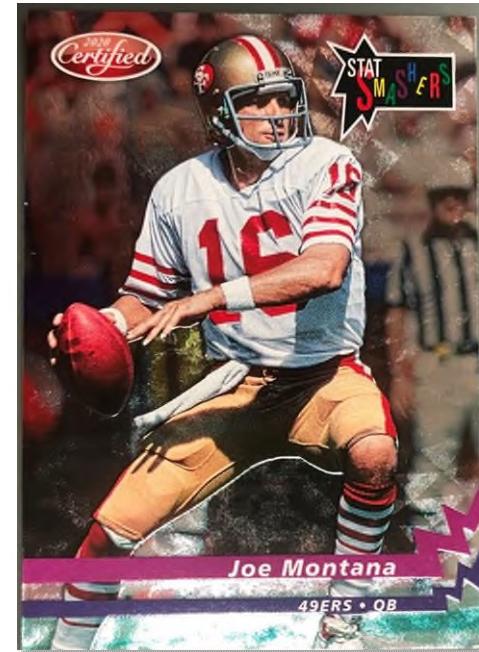


Joe Montana 2020 Panini Infringing Card (Exhibit 29).

Front of Cards

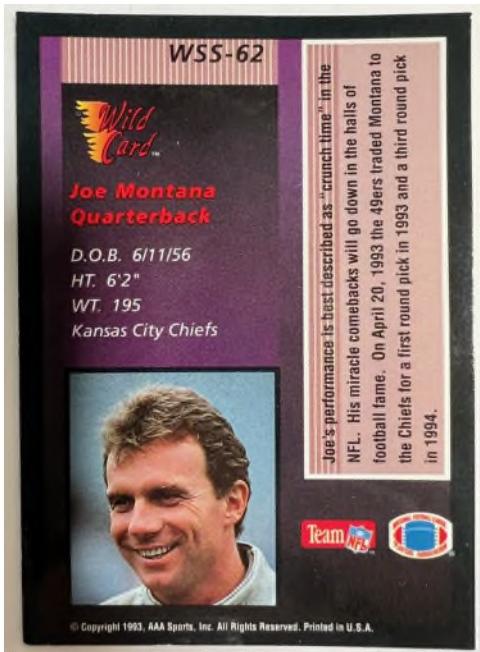


Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13).

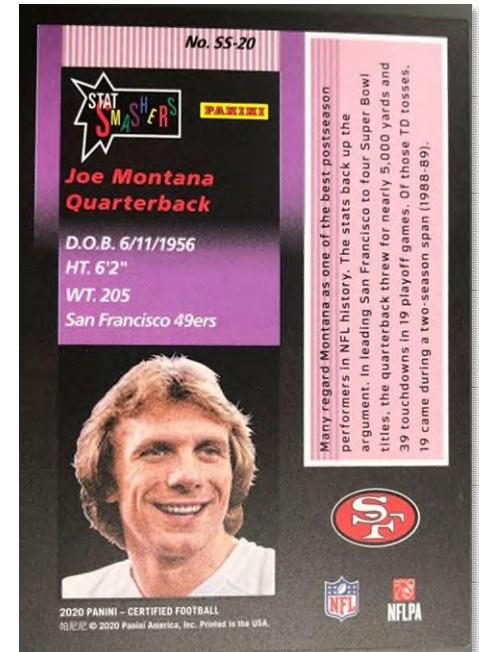


Joe Montana 2020 Panini Infringing Card (Exhibit 29).

Back of Cards



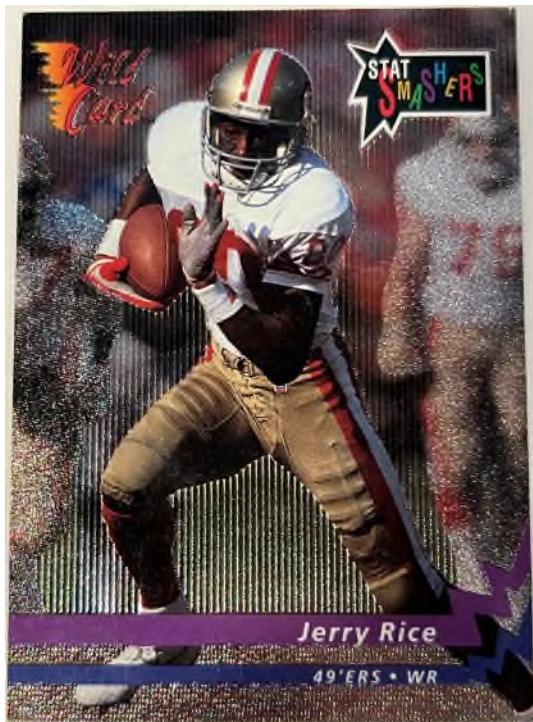
Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13).



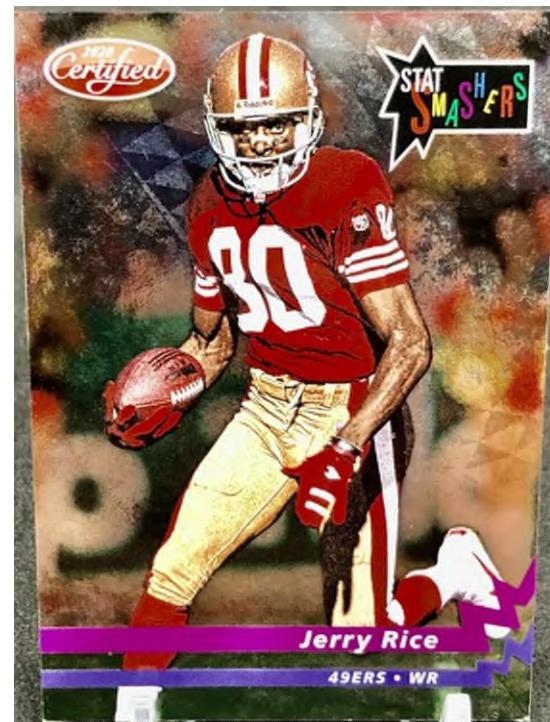
Joe Montana 2020 Panini Infringing Card (Exhibit 29).

59. Another example comparison of the 2020 Panini Infringing Card for player Jerry Rice<sup>22</sup> shows at least substantial similarity with the Jerry Rice AAA Sports Copyrighted Work for the same player:

Front of Cards



Jerry Rice AAA Sports Copyrighted Work  
(Exhibit 11).

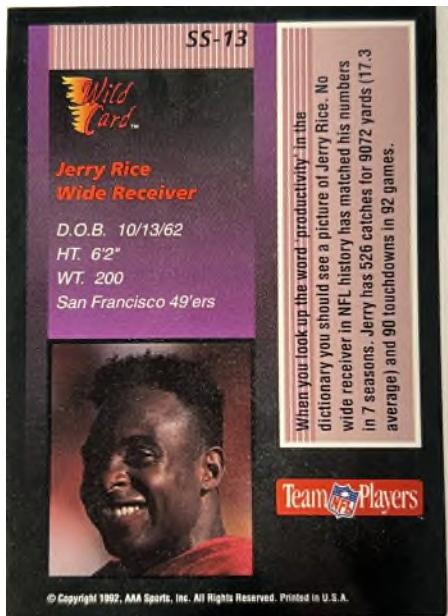


Jerry Rice 2020 Panini Infringing Card  
(Exhibit 30).

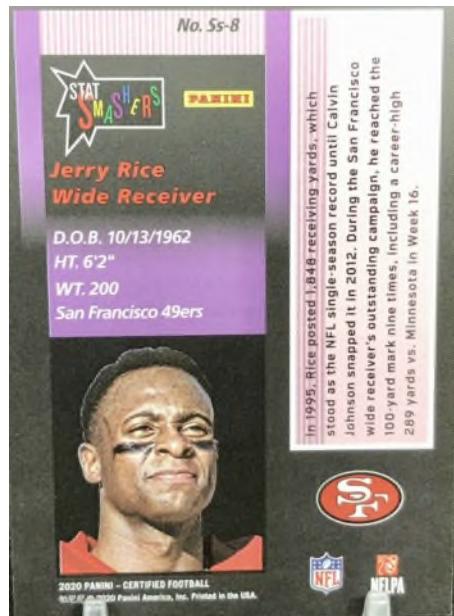
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<sup>22</sup> Exhibit 30, Panini Infringing Card image obtained from eBay, <https://www.ebay.com/itm/174812724112> (Web Page capture Feb. 2, 2022).

Back of Cards



Jerry Rice AAA Sports Copyrighted Work  
(Exhibit 11).



Jerry Rice Panini Infringing Card  
(Exhibit 30).

60. An example of the 2020 Panini Infringing Card in individually factory-sealed packages is provided below. Such cards infringe in the same manner as described above. Discovery is expected to disclose the manner in which Panini makes such cards available to its customers and whether Panini makes similar infringing cards available for its 2021 “Certified” card releases. See, for example, the following:



Exhibit 31, Photographs of front and back of Tom Brady 2020 Panini Infringing Card (in Plaintiff's possession).

## 2. Unauthorized Copying of AAA Sports Wild Card's Stat Smashers in Digital Form

61. Panini's infringement based on its digital cards is similar to the infringement described above. Upon information and belief, on or about November 2020, Defendant Panini began publication and sale of digital sports cards based on unauthorized copying of AAA Sports' Copyrighted Works.<sup>23</sup> These unauthorized digital copies of AAA Sports' Copyrighted Works mirror the 2020 Panini Infringing Cards in physical form. Upon information and belief, Panini makes the infringing trading cards in digital form available for sale as special inserts to its digital version of its so called "Certified" card releases, including the "2020 Panini Certified Football" card releases (referred to as the "Panini NFL Blitz"). These digital inserts are collectively referred

<sup>23</sup> Exhibit 59, Panini News re: 2020 Release Date (Nov. 20, 2020), <http://news.paninid tcb.com/2020/11/20/certified-returns-to-blitz-with-fotl-black-exclusives/> (Web Page capture Feb. 8, 2022).

to herein as the “2020 Panini Digital Infringing Cards.” Panini sells the 2020 Panini Digital Infringing Cards under AAA Sports’ CMI, “Stat Smashers.”

62. The 2020 Panini Digital Infringing Cards may be viewed, purchased, sold, transferred, and/or traded through the Panini NFL Blitz mobile app, available on Android and iOS devices.<sup>24</sup> See, for example, the following:



Exhibit 35, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022).

<sup>24</sup> See Exhibit 32, Panini Digital Applications, available at <https://www.paniniamerica.net/apps.html> (Web Page capture Feb. 3, 2022); Exhibit 33, Android version, available at [https://play.google.com/store/apps/details?id=com.paninidigitalinc.blitz&hl=en\\_IN](https://play.google.com/store/apps/details?id=com.paninidigitalinc.blitz&hl=en_IN) (Web Page capture Feb. 2, 2022); Exhibit 34, iOS version, available at <https://apps.apple.com/us/app/nfl-blitz-trading-card-games/id1270189416> (Web Page capture Feb. 2, 2022).

63. Panini publishes, distributes, and displays the 2020 Panini Digital Infringing Cards on its NFL Blitz mobile app. See, for example, the following:



Exhibit 36, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022); *see also* Exhibit 37, Screen captures of images of individual players in preview form (Feb. 4, 2022).

64. Panini also makes the 2020 Digital Infringing Cards available for purchase through its NFL Blitz mobile app. See, for example, the following:

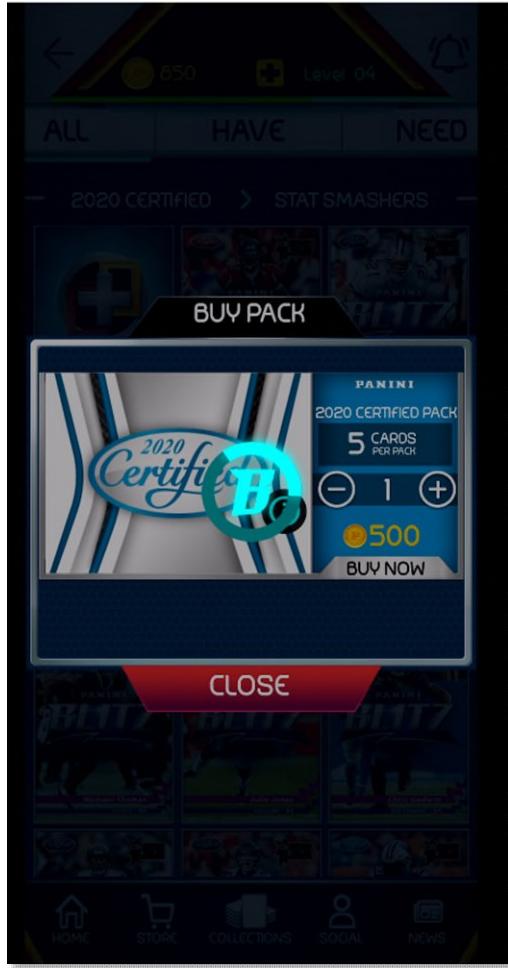


Exhibit 38, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022).

65. Once purchased, Panini makes a second version of the 2020 Panini Digital Infringing Card available to its customers. Discovery is expected to disclose images for each of the first and second versions of the 2020 Panini Digital Infringing Cards. See, for example, the following:



Exhibit 37 at 5, Screen capture of Panini NFL Blitz mobile app showing on right first version of 2020 Panini Digital Infringing Card and Exhibit 39 on left second version of the 2020 Panini Digital Infringing Card.

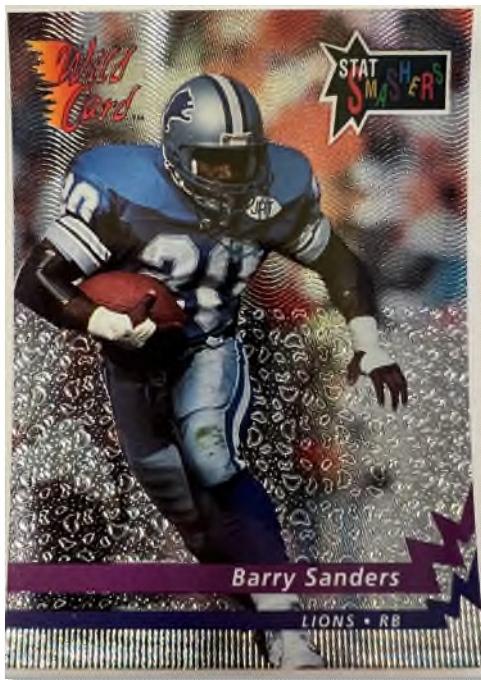
66. Upon information and belief, the 2020 Panini Digital Infringing Cards include at least two sets of 24 different sports cards (for players listed above, except Joe Montana, and for the first and second version of the digital cards) that are nearly identical or substantially similar to AAA Sports' Copyrighted Works, including their design, layout, compilation, and other creative features and elements.

67. Upon information and belief, Panini has made, sold, and/or distributed many copies of each of the versions of the 2020 Panini Digital Infringing Cards in digital form. Discovery is expected to disclose the exact number of copies Panini has made, sold, and/or distributed of each of the 2020 Panini Digital Infringing Cards.

68. Upon information and belief, Panini had access to the AAA Sports Copyrighted Works and used those Works to generate the 2020 Panini Digital Infringing Cards. For example,

the following comparisons of AAA Sports' Copyrighted Works with the 2020 Panini Digital Infringing Cards demonstrate that Panini had access to the Copyrighted Works and that the Infringing Cards are substantially similar to the Copyrighted Works.

69. An example comparison of the 2020 Panini Digital Infringing Card for player Barry Sanders shows at least substantial similarity with the Barry Sanders AAA Sports Copyrighted Work for the same player. Upon information and belief, once purchased, the second version of the 2020 Panini Digital Infringing Card is provided to the purchaser (not shown here):

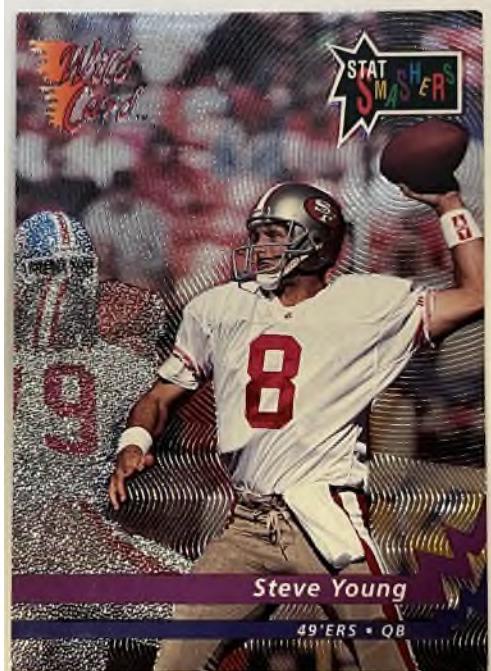


Barry Sanders AAA Sports Copyrighted Work (Exhibit 8).

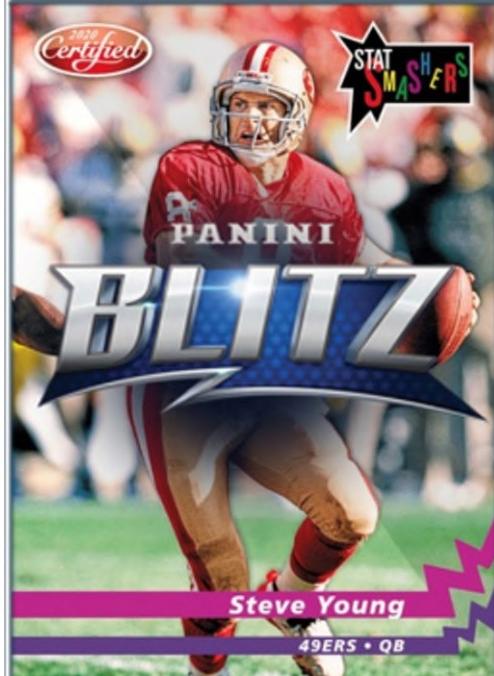


Barry Sanders 2020 Panini Digital Infringing Card (Exhibit 37 at 9).

70. An example comparison of the 2020 Panini Digital Infringing Card for player Steve Young shows at least substantial similarity with the Steve Young AAA Sports Copyrighted Work for the same player. Upon information and belief, once purchased, the second version of the 2020 Panini Digital Infringing Card is provided to the purchaser (not shown here):

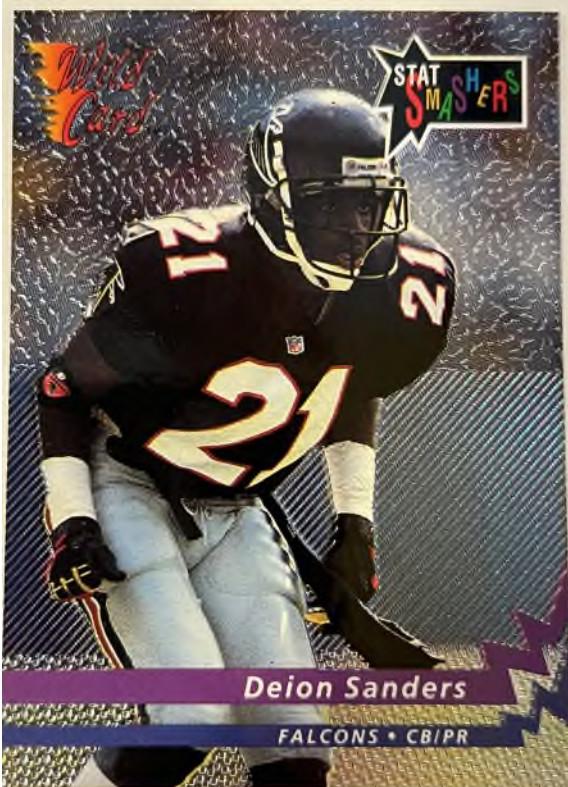


Steve Young AAA Sports Copyrighted Work (Exhibit 14).



Steve Young 2020 Panini Digital Infringing Card (Exhibit 37 at 12).

71. Another example comparison of the 2020 Panini Digital Infringing Card for player Deion Sanders shows at least substantial similarity with the Deion Sanders AAA Sports Copyrighted Work for the same player. Upon information and belief, once purchased, the second version of the 2020 Panini Digital Infringing Card is provided to the purchaser (not shown here):



Deion Sanders AAA Sports Copyrighted Work (Exhibit 9).



Deion Sanders 2020 Panini Digital Infringing Card (Exhibit 37 at 10).

### 3. Unauthorized Copying of AAA Sports Wild Card's Stat Smashers in the Form of Plates

72. Panini's infringement based on its printing plates is similar. Upon information and belief, Panini makes printing plates with images of AAA Sports Wild Card's Stat Smashers ("2020 Panini Infringing Plates"). These unauthorized copies mirror the 2020 Panini Infringing Cards in physical form. Upon information and belief, the 2020 Panini Infringing Plates include at least 25 different sports card plates (for players listed above) that are nearly identical or substantially similar to AAA Sports' Copyrighted Works, including their design, layout, compilation, and other creative features and elements. Panini sells the 2020 Panini Infringing Plates under AAA Sports' CMI, "Stat Smashers."

73. Upon information and belief, Panini has made, sold, and/or distributed many copies of the 2020 Panini Infringing Plates. Discovery is expected to disclose the exact number of copies Panini has made, sold, and/or distributed of each of the 2020 Panini Infringing Plates.

74. Upon information and belief, Panini had access to the AAA Sports Copyrighted Works and used those Works to generate the 2020 Panini Infringing Plates. For example, 2020 Panini Infringing Plates shown below demonstrate that Panini had access to the Copyrighted Works and that the Infringing Plates are substantially similar to the Copyrighted Works:



Exhibit 40, Image of 2020 Panini Infringing Plate for player Jerry Rice.



Exhibit 41, Image of 2020 Panini Infringing Plate for player Patrick Mahomes II, eBay, <https://www.ebay.com/itm/304201109242?hash=item46d3cc8efa:g:oVcAAOSw6nRheFdF> (Web Page capture Feb. 2, 2022).



Exhibit 42, Image of 2020 Panini Infringing Plate for player Ezekiel Elliott, eBay, <https://www.ebay.com/itm/2020-PLATES-PATCHES-Ezekiel-Elliott-1-1-CERTIFIED-Printing-Plate-Stat-Smashers-/165043511819?mkcid=16&mkevt=1&trksid=p2349624.m46890.16249&mkrld=711-127632-2357-0> (Web Page capture Feb. 2, 2022).

#### 4. Unauthorized Copying of AAA Sports Wild Card's Stat Smashers in Printed Publications

75. Panini's infringement based on its other products is similar. Upon information and belief, Panini makes other products with images of AAA Sports' Copyrighted Works ("2020 Panini Infringing Printed Publications"). Panini, makes, publishes, and distributes the 2020 Panini Infringing Printed Publications under AAA Sports' CMI, "Stat Smashers."

76. For example, these products include sell sheets with an image of player Michael Thomas that is nearly identical or substantially similar to AAA Sports' Copyrighted Works, including their design, layout, compilation, and other creative features and elements. These unauthorized copies mirror the 2020 Panini Infringing Cards in physical form. Upon information and belief, Panini has made, published, and distributed many copies of its sell sheets to its distributors, direct retailers, and other customers. See, for example, the following:

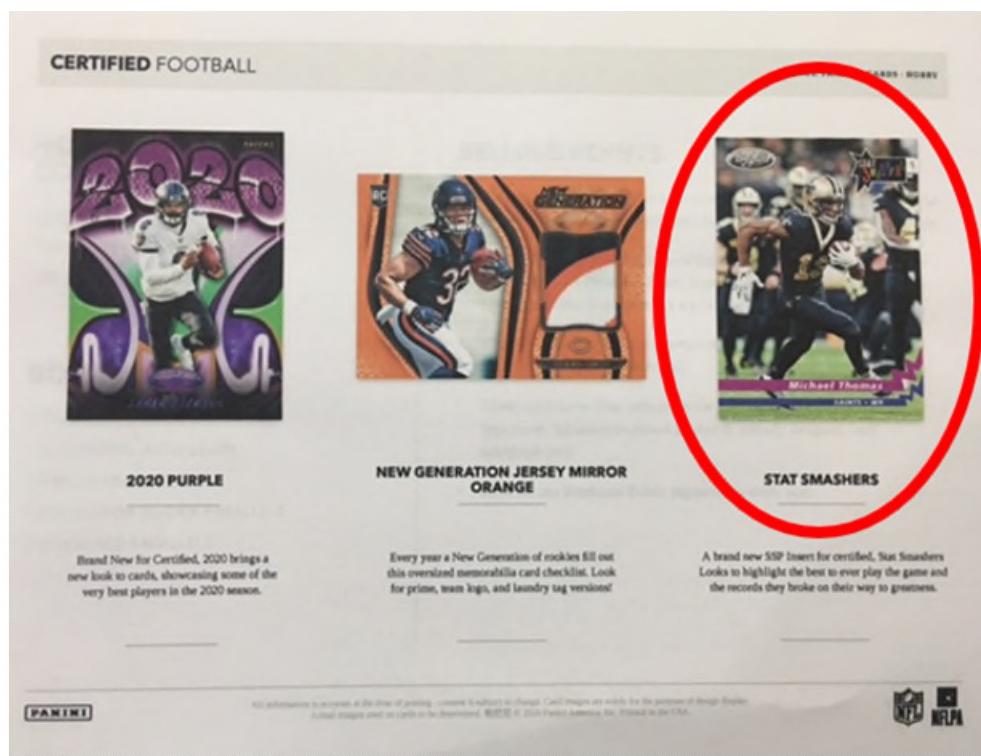


Exhibit 43, Photograph of 2020 Panini Sell Sheet (hardcopy in Plaintiff's possession); *see also* Exhibit 23, 2020 Panini Sell Sheet in digital form, [https://blog.paniniamerica.net/wp-content/uploads/2020/06/Certified\\_Hobby\\_Low.pdf](https://blog.paniniamerica.net/wp-content/uploads/2020/06/Certified_Hobby_Low.pdf) (Web Page capture Feb. 9, 2022).

77. The 2020 Panini Infringing Printed Publications also include electronic blogs available on Panini's website with images of sports cards for the players listed above that are nearly identical or substantially similar to AAA Sports' Copyrighted Works, including their design, layout, compilation, and other creative features and elements. Discovery is expected to disclose the exact number of copies Panini has made, published, and distributed of its infringing blogs and other similar infringing products. See, for example, the following:

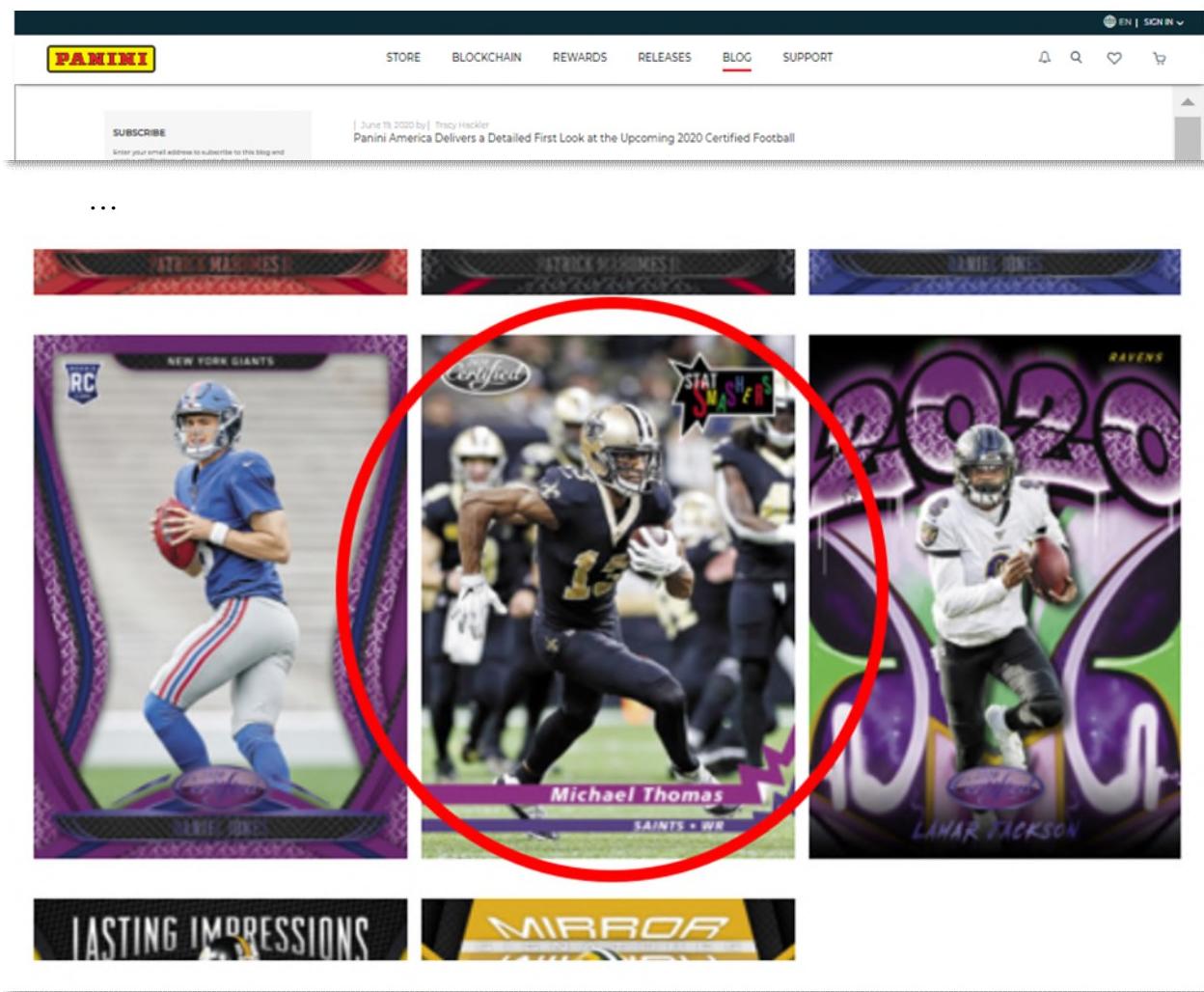


Exhibit 44, *Panini America Delivers a Detailed First Look at the Upcoming 2020 Certified Football*, Panini Blog (June 19, 2020), <https://www.paniniamerica.net/blog/?s=stat%20smasher> (Web Page capture Feb. 2, 2022).

78. Upon information and belief, Panini had access to the AAA Sports Copyrighted Works and used those Works to generate the 2020 Panini Infringing Printed Publications. For example, the above images of the 2020 Panini Infringing Printed Publications demonstrate that Panini had access to the Copyrighted Works and that the 2020 Panini Infringing Printed Publications are substantially similar to the Copyrighted Works.

79. Accordingly, Defendant Panini has unlawfully reproduced, copied, adapted, distributed, and publicly displayed unauthorized copies of AAA Sports' Copyrighted Works in at least the different forms discussed above since at least 2020 and without proper authorization or license from AAA Sports.

**B. Panini's Unauthorized Derivative Works of AAA Sports' Copyrighted Works**

80. Upon information and belief, on or about August 2021, Panini began publication and commenced sales of unauthorized derivative works of AAA Sports Wild Card's Stat Smashers sports cards.<sup>25</sup> Upon information and belief, Defendant Panini has and continues to unlawfully reproduce, distribute, adapt, and publicly display such unauthorized derivative works based on AAA Sports' Copyrighted Works in different forms. Examples of Panini's unauthorized derivatives of AAA Sports Wild Card's Stat Smashers sports cards are discussed below.

81. The market for AAA Sports' potential derivatives includes only those AAA Sports would develop or license others to develop. Such unauthorized derivative works, thus, have usurped the market for AAA Sports' Copyrighted Works, including the derivative market where Defendant Panini's target audience and the nature of the infringing cards is the same as AAA

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<sup>25</sup> Exhibit 61, "The Panini America Quality Control Gallery: 2021 Certified Football," Panini Blog (Aug. 24, 2021), <https://blog.paniniamerica.net/the-panini-america-quality-control-gallery-2021-certified-football/> (Web Page capture Feb. 9, 2022).

Sports' Copyrighted Works. AAA Sports has discovered at least the following non-limiting examples of such infringing acts.

**1. Unauthorized Derivative Works of AAA Sports Wild Card's Stat Smashers in Physical Form**

82. Upon information and belief, on or about July 2021, Defendant Panini began publication and sale of physical sports cards based on unauthorized derivative works of AAA Sports' Copyrighted Works. Upon information and belief, Defendant Panini makes the infringing physical trading cards available for sale as special inserts to its so called "Certified" card releases, including the "2021 Panini Certified Football" card releases. These inserts are collectively referred to herein as the "2021 Panini Infringing Cards." Panini sells the 2021 Panini Infringing Cards under AAA Sports' CMI, "Stat Smashers."

83. Upon information and belief, the 2021 Panini Infringing Cards include at least 25 different sports cards that have recast and/or adapted AAA Sports' Copyrighted Works, including their design, layout, compilation, and other creative features and elements.

84. Upon information and belief, Panini has made, sold, and/or distributed many copies of each of the 2021 Panini Infringing Cards in physical form. Discovery is expected to disclose the exact number of physical copies Panini has made, sold, and/or distributed of each of the 2021 Panini Infringing Cards.

85. The 2021 Panini Infringing Cards include those for the following players:<sup>26</sup>

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<sup>26</sup> Exhibit 45, "2021 Panini Certified Football Cards," available at <https://www.cardboardconnection.com/2021-panini-certified-football-nfl-cards> (Web Page capture Jan. 4, 2022).

| Infringing Card No. | Player              | Team                 |
|---------------------|---------------------|----------------------|
| 1                   | Alvin Kamara        | New Orleans Saints   |
| 2                   | Michael Thomas      | New Orleans Saints   |
| 3                   | Jerry Rice          | San Francisco 49ers  |
| 4                   | Emmitt Smith        | Dallas Cowboys       |
| 5                   | Christian McCaffrey | Carolina Panthers    |
| 6                   | Travis Kelce        | Kansas City Chiefs   |
| 7                   | Justin Jefferson    | Minnesota Vikings    |
| 8                   | Justin Herbert      | Los Angeles Chargers |
| 9                   | LaDainian Tomlinson | San Diego Chargers   |
| 10                  | Randy Moss          | New England Patriots |
| 11                  | Tom Brady           | Tampa Bay Buccaneers |
| 12                  | Patrick Mahomes II  | Kansas City Chiefs   |
| 13                  | Aaron Rodgers       | Green Bay Packers    |
| 14                  | Barry Sanders       | Detroit Lions        |
| 15                  | Josh Allen          | Buffalo Bills        |
| 16                  | Stefon Diggs        | Buffalo Bills        |
| 17                  | DeAndre Hopkins     | Arizona Cardinals    |
| 18                  | Derrick Henry       | Tennessee Titans     |
| 19                  | Mike Evans          | Tampa Bay Buccaneers |
| 20                  | Drew Brees          | New Orleans Saints   |
| 21                  | Joe Burrow          | Cincinnati Bengals   |
| 22                  | Dak Prescott        | Dallas Cowboys       |

| Infringing Card No. | Player           | Team               |
|---------------------|------------------|--------------------|
| 23                  | Larry Fitzgerald | Arizona Cardinals  |
| 24                  | Frank Gore       | New York Jets      |
| 25                  | Peyton Manning   | Indianapolis Colts |

86. Upon information and belief, Panini had access to the AAA Sports Copyrighted Works and used those Works to generate the 2021 Panini Infringing Cards. For example, the following comparison of AAA Sports' Copyrighted Works with the 2021 Panini Infringing Cards demonstrates that Panini had access to the Copyrighted Works and that the 2021 Panini Infringing Cards are substantially similar to the Copyrighted Works.

87. The example comparison also shows Panini's unauthorized recasting and/or adapting of AAA Sports' Stat Smashers sports cards, including the selection and/or arrangement, layout, and composition of the cards, such as placement and arrangement of logos, use of AAA Sports' numbering system (shown on back of card), player images, player and team names, selective use of stripes, and other background elements, as well as other creative features and elements, such as color scheme, stripes and trailing zigzag, blurred background, and use of AAA Sports' Stat Smashers CMI. See, for example, the following:



Jerry Rice AAA Sports Copyrighted Work (Exhibit 11) on left and Jerry Rice 2021 Panini Infringing Card (Exhibit 46) on right (front of cards, annotated).

88. Additionally, or in the alternative, Defendant Panini has created unauthorized derivative works based on AAA Sports' copyright of its Stat Smashers symbol, design, and/or logo, and has transposed such unauthorized works on its 2021 Panini Infringing Cards.

89. An example comparison of the 2021 Panini Infringing Card for player Jerry Rice<sup>27</sup> shows at least substantial similarity with AAA Sports' copyright of its "Stat Smashers" symbol, design, and logo for the same player, including, but not limited to, its shape, straight lettering for the term "Stat" followed by crooked lettering for the term "Smashers," size and placement of the term "Stat" in relation to the term "Smashers," use of zigzag lines resembling the zigzag line of the AAA Sports' stripes with trailing zigzag lines, and color scheme:

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<sup>27</sup> Exhibit 46, Panini Infringing Card image obtained from eBay <https://www.ebay.com/itm/-/234318902057> (Web Page capture Feb. 2, 2022).



Jerry Rice AAA Sports Copyrighted Work (Exhibit 11) on left; Jerry Rice 2021 Panini Infringing Card front and back views (Exhibit 46) on right and center.

90. Upon information and belief, all 2021 Panini Infringing Cards include the same unauthorized derivative works.

91. Accordingly, Defendant Panini has unlawfully reproduced, copied, adapted, distributed, and publicly displayed unauthorized derivative works of AAA Sports' Copyrighted Works since at least 2021 and without proper authorization or license from AAA Sports.

## **2. Unauthorized Derivative Works of AAA Sports Wild Card's Stat Smashers in Digital Form**

92. Panini's infringement based on its digital cards is similar. Upon information and belief, on or about October 2021, Defendant Panini began publication and sale of digital sports cards based on unauthorized derivative works of AAA Sports' Copyrighted Works.<sup>28</sup> These unauthorized digital copies of AAA Sports' Copyrighted Works mirror the 2021 Panini Infringing

<sup>28</sup> Exhibit 60, Panini News re: 2021 Release Date (Oct. 22, 2021), <http://news.paninid tcb.com/2021/10/22/certified-returns-for-2021-with-new-fotl-exclusives/> (Web Page capture Feb. 8, 2022).

Cards in physical form. Upon information and belief, Panini makes the infringing trading cards in digital form available for sale as special inserts to its digital version of its so called “Certified” card releases, including the “2021 Panini Certified Football” card releases (referred to as the “Panini NFL Blitz”). These digital inserts are collectively referred to herein as the “2021 Panini Digital Infringing Cards.” Panini sells the 2021 Panini Digital Infringing Cards under AAA Sports’ CMI, “Stat Smashers.”

93. The 2021 Panini Digital Infringing Cards may be viewed, purchased, sold, transferred, and/or traded through the Panini NFL Blitz mobile app, available on Android and iOS devices.<sup>29</sup> See, for example, the following:



Exhibit 47, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022).

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<sup>29</sup> See Exhibit 32, Panini Digital Applications, available at <https://www.paniniamerica.net/apps.html> (Web Page capture Feb. 3, 2022); Exhibit 33, Android version, available at [https://play.google.com/store/apps/details?id=com.paninidigitalinc.blitz&hl=en\\_IN](https://play.google.com/store/apps/details?id=com.paninidigitalinc.blitz&hl=en_IN) (Web Page capture Feb. 2, 2022); Exhibit 34, iOS version, available at <https://apps.apple.com/us/app/nfl-blitz-trading-card-games/id1270189416> (Web Page capture Feb. 2, 2022).

94. Panini publishes, distributes, and displays the 2021 Panini Digital Infringing Cards on its NFL Blitz mobile app. See, for example, the following:



Exhibit 48, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022); Screen capture of images of individual players in preview form is set forth on Exhibit 49 (Feb. 4, 2022).

95. Panini also makes the 2021 Digital Infringing Cards available for purchase through its NFL Blitz mobile app. See, for example, the following:

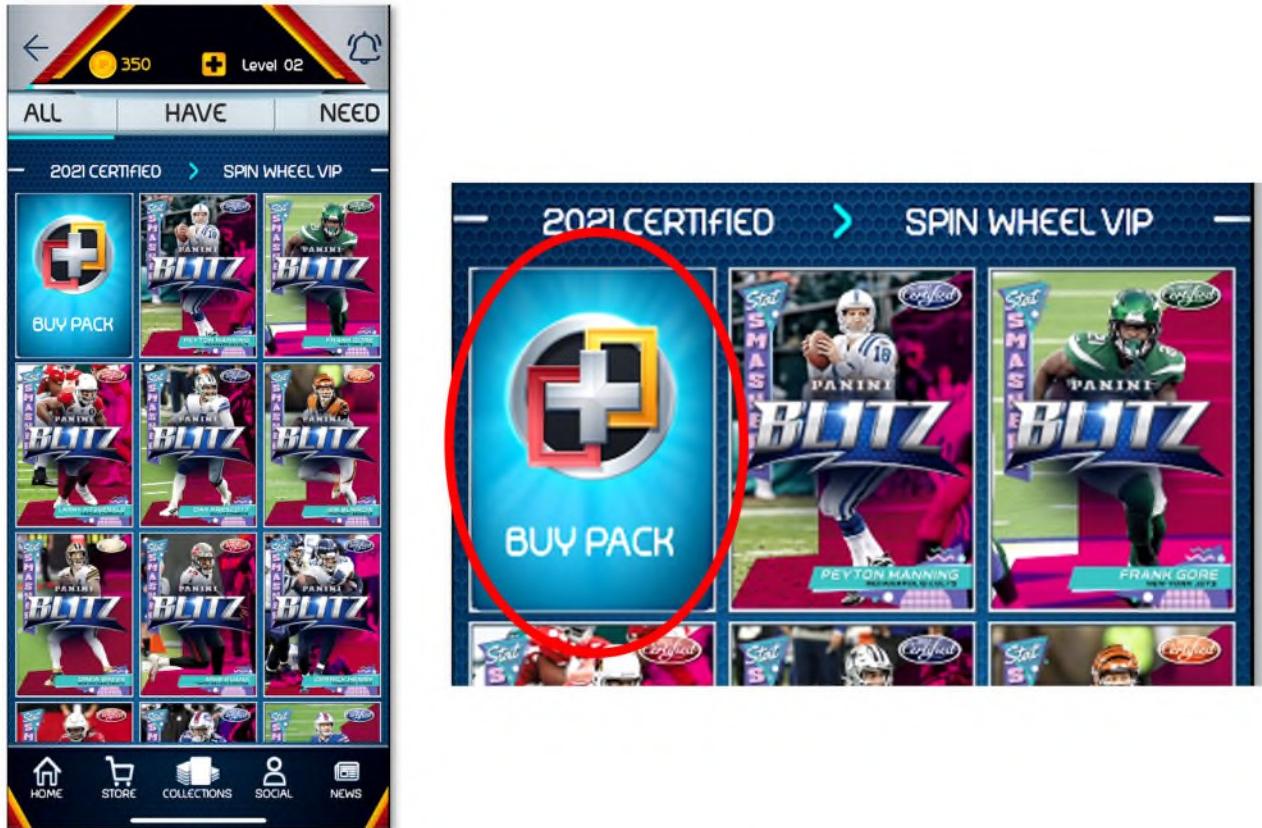


Exhibit 48, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022).

96. Once purchased, Panini makes a second version of the 2021 Panini Digital Infringing Card available to its customers. Discovery is expected to disclose images for each of the first and second versions of the 2021 Panini Digital Infringing Cards. See, for example, the following:

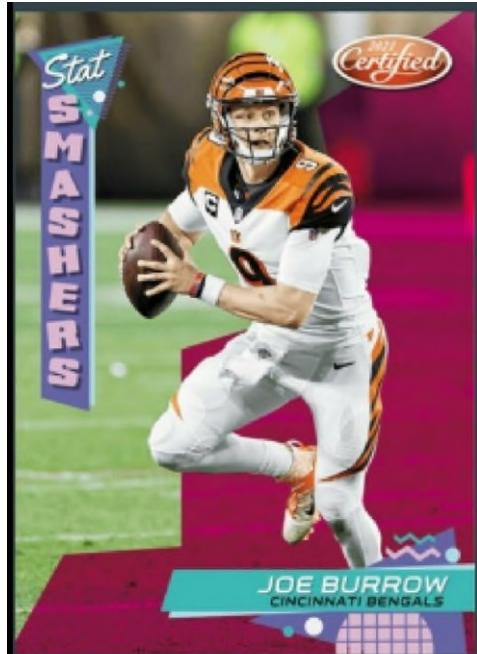


Exhibit 53, Screen capture of Panini NFL Blitz mobile app showing second version of the 2021 Panini Digital Infringing Card for player Joe Burrow; *see also* Exhibits 54-56, Screen captures of Panini NFL Blitz mobile app showing second version of the 2021 Panini Digital Infringing Card for players Travis Kelce, Josh Allen, and Justin Herbert.

97. Upon information and belief, the 2021 Panini Digital Infringing Cards include at least two sets of 25 different sports cards (for players listed above and for the first and second version of the digital cards) that have recast and/or adapted AAA Sports' Copyrighted Works, including their design, layout, compilation, and other creative features and elements.

98. Upon information and belief, Panini has made, sold, and/or distributed many copies of each of the 2021 Panini Digital Infringing Cards in digital form. Discovery is expected to disclose the exact number of copies Panini has made, sold, and/or distributed of each of the 2021 Panini Digital Infringing Cards.

99. Upon information and belief, Panini had access to the AAA Sports' Copyrighted Works and used those Works to generate the 2021 Panini Digital Infringing Cards. For example, the following comparison of AAA Sports' Copyrighted Works with the 2021 Panini Digital

Infringing Cards demonstrates that Panini had access to the Copyrighted Works and that the 2021 Panini Digital Infringing Cards are substantially similar to the Copyrighted Works.

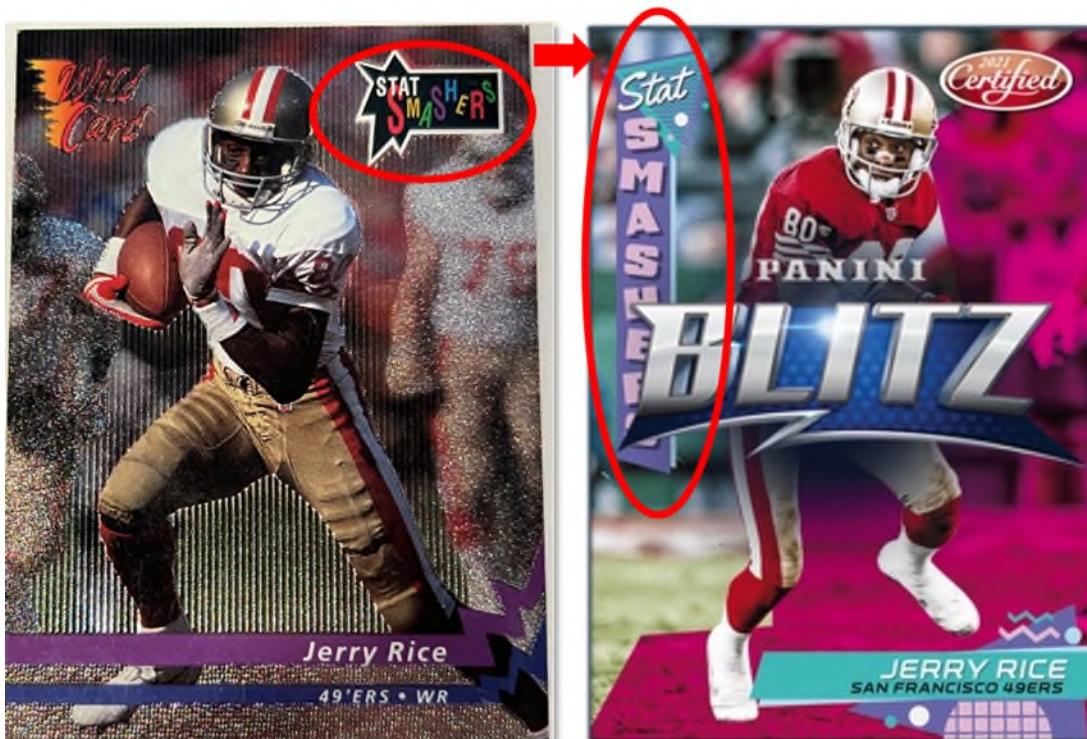
100. The example comparison also shows Panini's unauthorized recasting and/or adapting of AAA Sports' Stat Smashers sports cards, including the selection and/or arrangement, layout, and composition of the cards, such as placement and arrangement of logos, player images, player and team names, selective use of stripes, and other background elements, as well as other creative features and elements, such as color scheme, stripes and trailing zigzag, blurred background, and use of AAA Sports' Stat Smashers CMI. See, for example, the following:



Jerry Rice AAA Sports Copyrighted Work (Exhibit 11) on left and Jerry Rice 2021 Panini Digital Infringing Card (Exhibit 49 at 9) on right (front of cards, annotated).

101. Additionally, or in the alternative, Defendant Panini has created unauthorized derivative works based on AAA Sports' copyright of its Stat Smashers symbol, design, and/or logo, and has transposed such unauthorized works on its 2021 Panini Digital Infringing Cards.

102. An example, comparison of the 2021 Panini Digital Infringing Card for player Jerry Rice shows at least substantial similarity with AAA Sports' copyright of its "Stat Smashers" symbol, design, and logo for the same player, including, but not limited to, its shape, straight lettering for the term "Stat" followed by crooked lettering for the term "Smashers;" size and placement of the term "Stat" in relation to the term "Smashers;" use of zigzag lines resembling the zigzag line of the AAA Sports' stripes with trailing zigzag lines, and color scheme:



Jerry Rice AAA Sports Copyrighted Work (Exhibit 11) on left; Jerry Rice 2021 Panini Digital Infringing Card (Exhibit 49 at 9) on right.

103. Upon information and belief, all 2021 Panini Digital Infringing Cards include the same unauthorized derivative works.

104. Accordingly, Defendant Panini has unlawfully reproduced, copied, adapted, distributed, and publicly displayed unauthorized derivative works of AAA Sports' Copyrighted Works since at least 2021 and without proper authorization or license from AAA Sports.

## **VI. GENERAL ALLEGATIONS OF VIOLATIONS OF THE DMCA**

105. Upon information and belief, Defendant Panini has knowingly and with the intent to induce, enable, facilitate, or conceal infringement, provided CMI that is false or distributed or imported for distribution CMI that is false.

106. Upon information and belief, Defendant Panini has also without the authority of AAA Sports and knowing or having reasonable grounds to know that it will induce, enable, facilitate, or conceal infringement (1) intentionally removed and/or altered AAA Sports' CMI, (2) distributed or imported for distribution CMI knowing that such CMI has been removed or altered without AAA Sports' authority, and/or (3) distributed or imported for distribution copies of AAA Sports' copyrighted works knowing that CMI has been removed and/or altered without authority of AAA Sports.

107. Panini has committed such acts in violation of the DMCA, 17 U.S.C. §§ 1202 (a) and (b), in conjunction with its unauthorized copying and unauthorized derivatives of the AAA Sports' Copyrighted Works in the forms discussed above. Below are non-limiting examples of such violations. As described herein, the number of such violations is extensive.

### **A. Violations of the DMCA Based on Panini's Unauthorized Copying of AAA Sports' Copyrighted Works**

108. As discussed above, Defendant Panini makes unauthorized copies of AAA Sports' Copyrighted Works in various forms, including physical trading cards, digital trading cards, printing plates, and other printed publications. With respect to each of these types of unauthorized copies, Defendant Panini has violated the DMCA under 17 U.S.C. §§ 1202 (a) and (b).

## 1. DMCA Violations in Physical Trading Cards of AAA Sports Wild Card's Stat Smashers

109. The following provides examples of Defendant Panini's DMCA violations in physical trading cards related to AAA Sports Wild Card's Stat Smashers. These examples are not limiting. Discovery is expected to disclose the manner in which Defendant Panini has committed such violations, the number of such acts, and the context within which Panini has committed such acts.

110. For example, all AAA Sports Wild Card's Stat Smashers include CMI in the form of a copyright notice, "© Copyright [year], AAA Sports, Inc. All Rights Reserved." See, for example, the following:



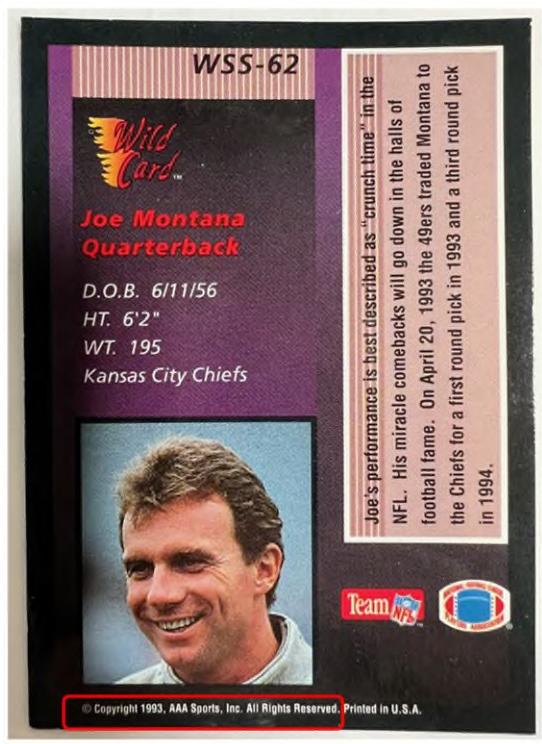
Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13), excerpt (annotation added).

111. With respect to AAA Sports' copyright notification CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports'

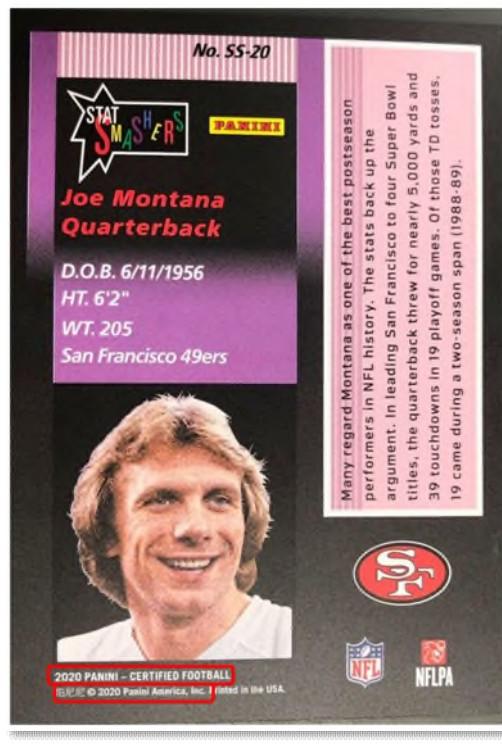
copyright notice from all 2020 Panini Infringing Cards and has in its place provided false CMI by placing its own name and notification on each card.

112. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' copyright notice from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name, alleged copyright notice and notification. See, for example, the following:

Back of Cards



Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13) (annotation added).



Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotations added).

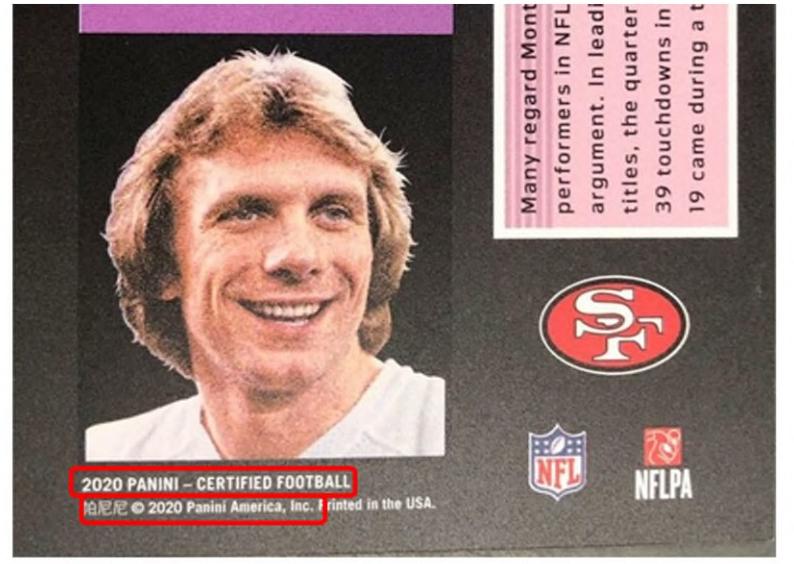


Exhibit 29, 2020 Panini Infringing Card, player Joe Montana, excerpt (annotations added).

113. By way of further example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' "Wild Card" CMI. See, for example, the following:



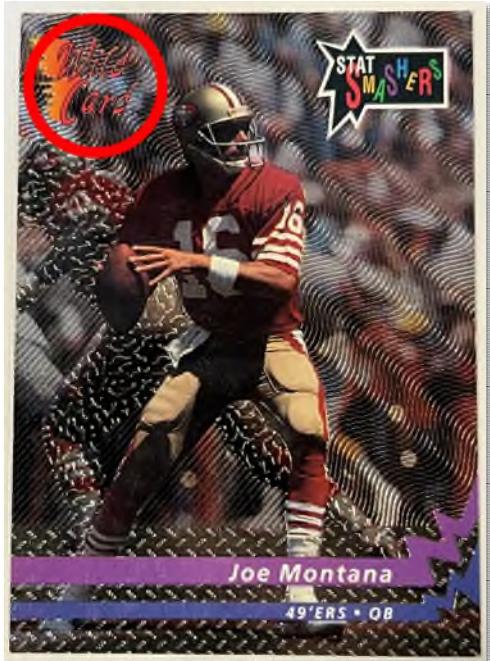


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12), excerpt, front and back of card (annotations added).

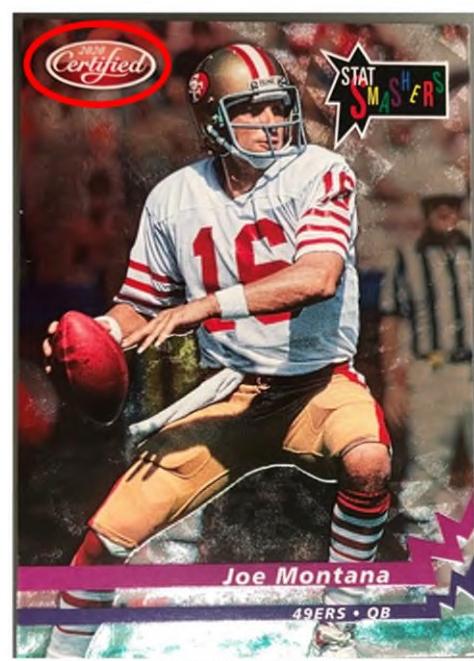
114. With respect to AAA Sports' "Wild Card" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' "Wild Card" CMI from all 2020 Panini Infringing Cards and has in its place provided false CMI by placing Defendant Panini's own name and notification on each card.

115. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification. See, for example, the following:

Front of Cards

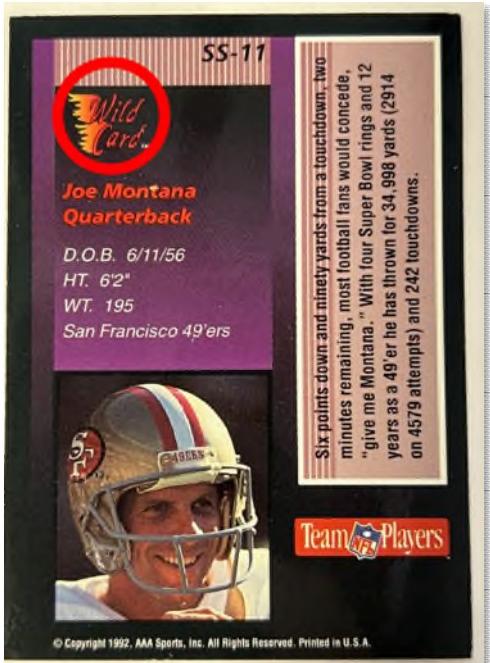


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12) (annotation added).

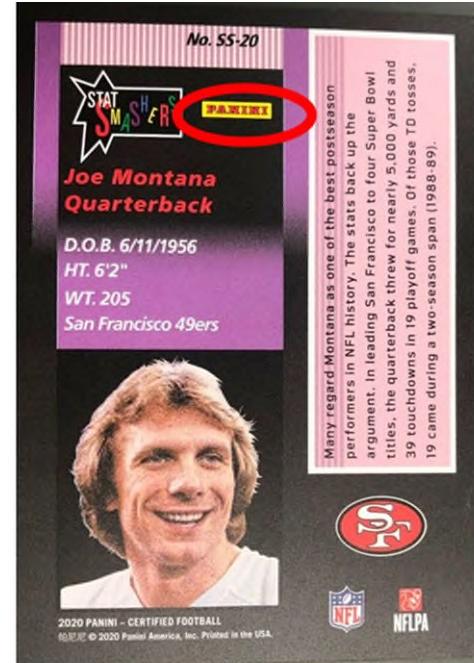


Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotation added).

Back of Cards

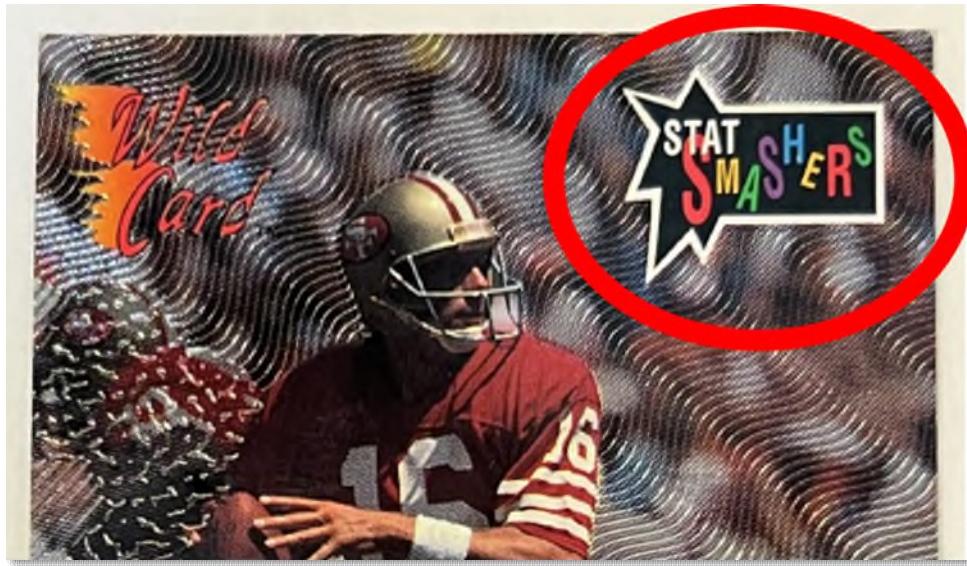


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12) (annotation added).



Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotation added).

116. All AAA Sports Wild Card's Stat Smashers also include AAA Sports' "Stat Smashers" CMI. See, for example, the following:



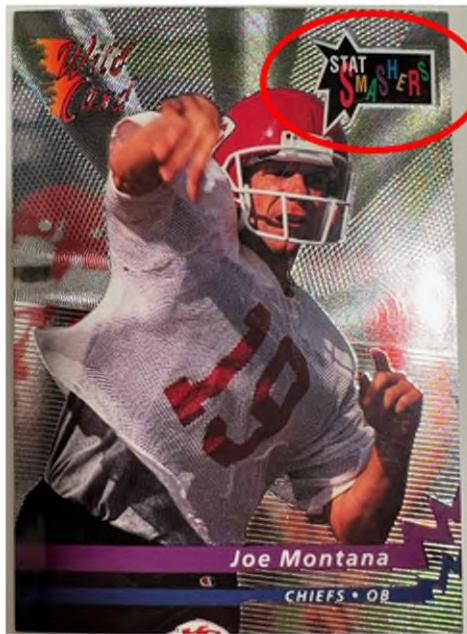
Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12), excerpt, front of card (annotation added).

117. With respect to AAA Sports' "Stat Smashers" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' "Stat Smashers" CMI on all 2020 Panini Infringing Cards in association with its own name and notification.

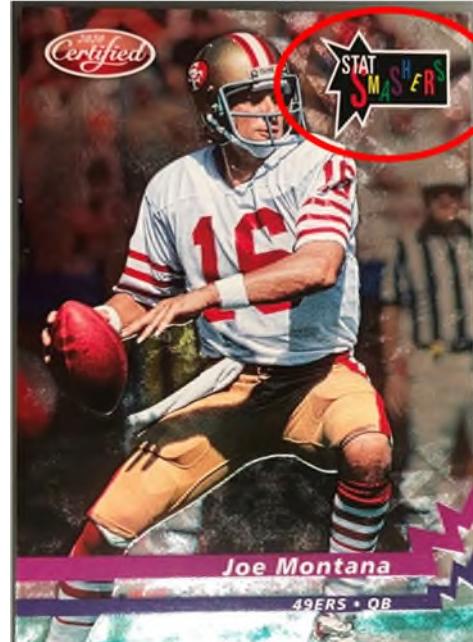
118. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI and AAA Sports' copyright notification CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the "Stat Smashers" CMI.

119. See, for example, the following:

Front of Cards

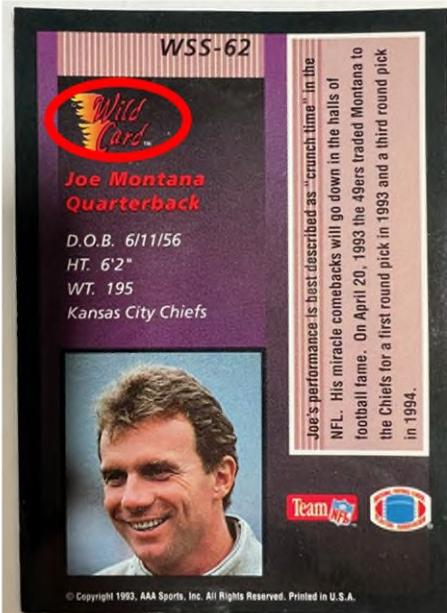


Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13) (annotation added).

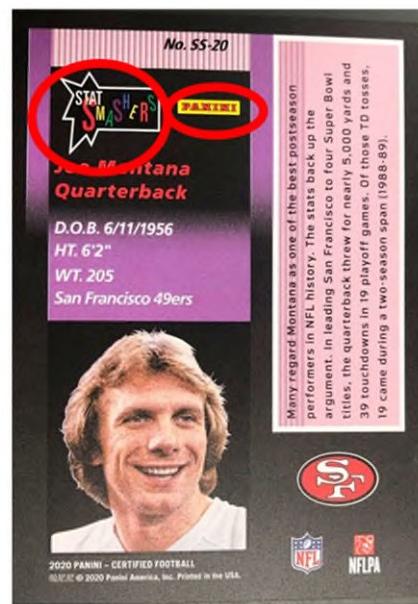


Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotation added).

Back of Cards



Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13) (annotation added).



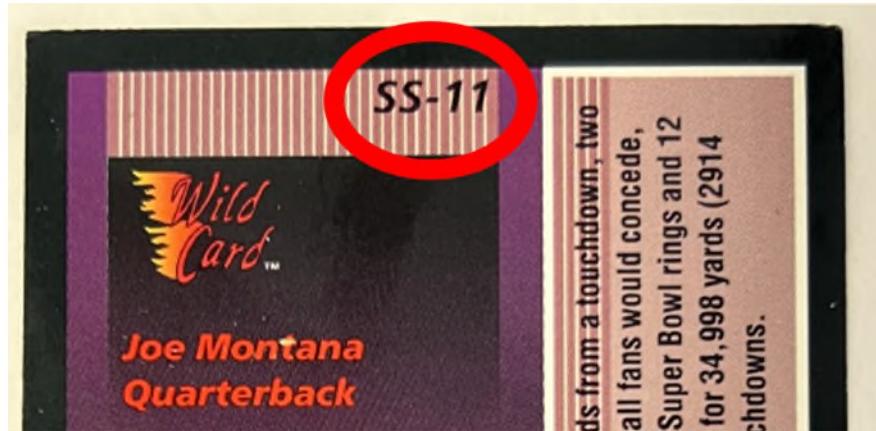
Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotations added).

120. Additionally, Defendant Panini has provided false CMI and/or distributed CMI that is false by placing AAA Sports' "Stat Smashers" CMI on all boxes that could include the 2020 Panini Infringing Cards as an insert. See, for example, the following:



Exhibit 50, excerpt images of front (top left) and back (bottom left and right) of 2020 Panini Certified Football release box (annotations added).

121. In yet another example, all of AAA Sports' Copyrighted Works include a unique numbering system that serves as CMI associated with AAA Sports. As discussed above, AAA Sports' CMI includes the "SS" designation, which stands for Stat Smashers, as well as the "SS" designation with a prefix indicating a regional division, such as the Western Division or "WSS" or Central Division or "CSS." See, for example, the following:



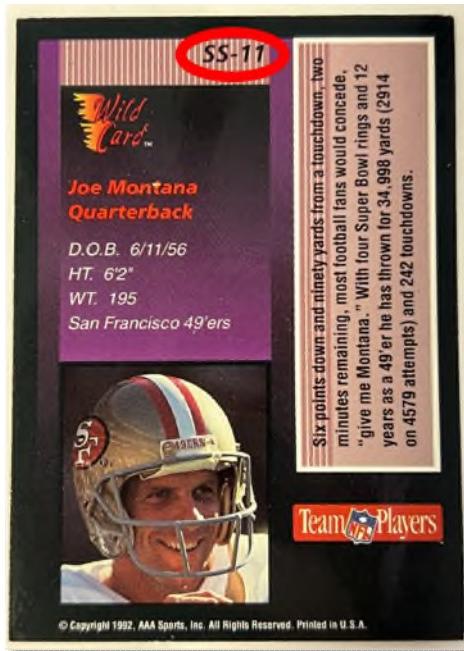
Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12), excerpt (annotation added).

122. With respect to AAA Sports' numbering system CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' number system CMI from all 2020 Panini Infringing Cards and has in its place provided false CMI by placing its own numbering identifier on each card that closely resembles and is substantially the same as AAA Sports' unique numbering system.

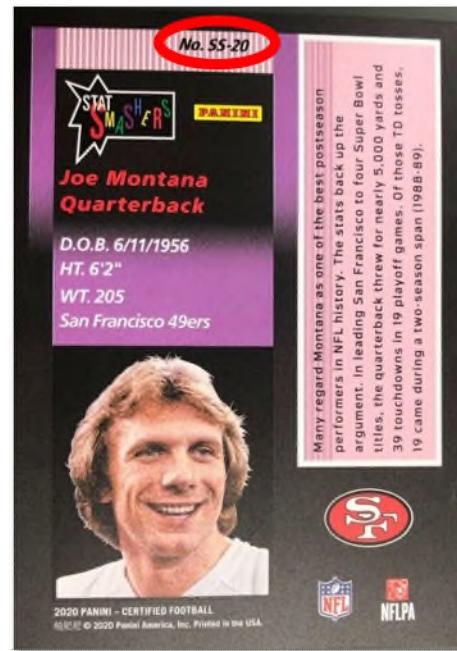
123. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' numbering system CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own numbering identifier on each card that closely resembles and is substantially the same as AAA Sports' unique numbering system.

124. See, for example, the following:

Back of Cards



Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12) (annotation added).



Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotation added).

125. By way of additional example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card's Stat Smashers and which constitutes CMI. See, for example, the following:

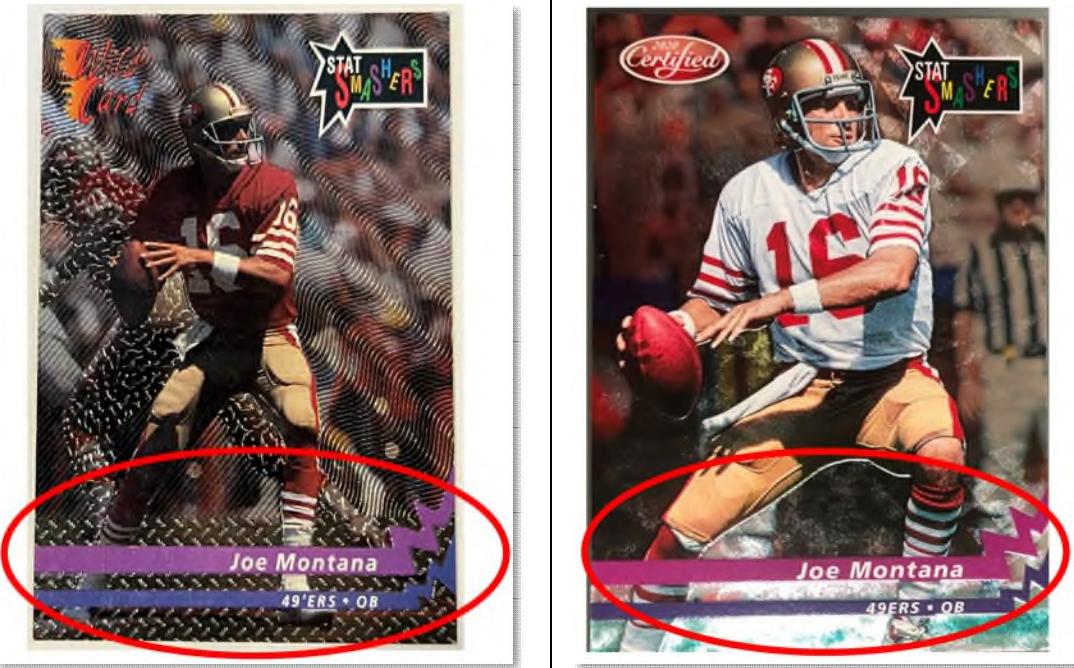


Exhibits 12 and 8, Joe Montana '92 and Barry Sanders AAA Sports Copyrighted Works (annotations added).

126. With respect to AAA Sports' double stripes CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' double stripes CMI on all 2020 Panini Infringing Cards in association with its own name and notification.

127. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI and AAA Sports' copyright notification CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the double stripes CMI. See, for example, the following:

Front of Cards



Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12) (annotation added).

Joe Montana 2020 Panini Infringing Card (Exhibit 29) (annotation added).

128. Upon information and belief, Defendant Panini has committed such violations with respect to all 2020 Panini Infringing Cards.

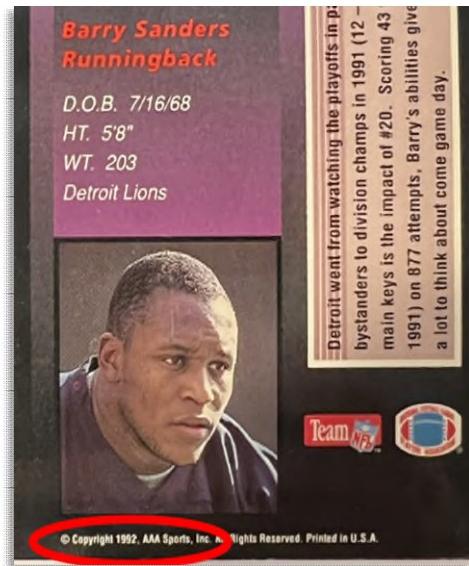
129. Upon information and belief, Defendant Panini has distributed for sale and for promotional purposes all 2020 Panini Infringing Cards with such violations under the DMCA. Discovery is expected to disclose the exact number of times Panini has committed and continues to commit such violations and the number of times it has distributed and continues to distribute such CMI knowing that the CMI has been removed or altered and/or distributed copies of works knowing that the CMI has been removed or altered without authority from AAA Sports.

## **2. DMCA Violations in Digital Trading Cards of AAA Sports Wild Card's Stat Smashers**

130. The following provides examples of Defendant Panini's DMCA violations in digital trading cards related to AAA Sports Wild Card's Stat Smashers. As discussed above,

Panini's unauthorized digital copies of AAA Sports' Copyrighted Works mirror the 2020 Panini Infringing Cards in physical form. As such, Panini's DMCA violations based on its digital cards are similar to its DMCA violations based on its physical cards. These examples are not limiting. Discovery is expected to disclose the manner in which Defendant Panini has committed such violations, the number of such acts, and the context within which Panini has committed such acts.

131. For example, all AAA Sports Wild Card's Stat Smashers include CMI in the form of a copyright notice, "© Copyright [year], AAA Sports, Inc. All Rights Reserved." See, for example, the following:

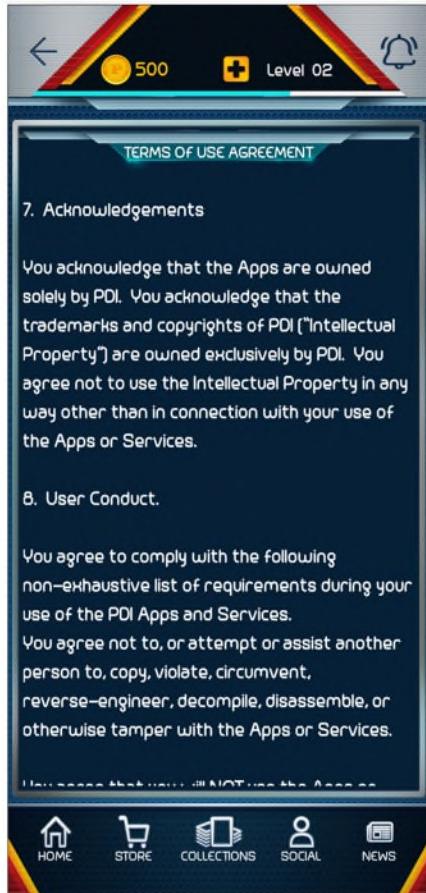


Barry Sanders AAA Sports Copyrighted Work (Exhibit 8), excerpt (annotation added).

132. With respect to AAA Sports' copyright notification CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports'

copyright notice from all 2020 Panini Infringing Digital Cards and has in its place provided false CMI by placing its own name and notification on each card.

133. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' copyright notice from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification. See, for example, the following:



7. Acknowledgements

You acknowledge that the Apps are owned solely by PDI. You acknowledge that the trademarks and copyrights of PDI ("Intellectual Property") are owned exclusively by PDI. You agree not to use the Intellectual Property in any way other than in connection with your use of the Apps or Services.

8. User Conduct.

You agree to comply with the following non-exhaustive list of requirements during your use of the PDI Apps and Services.

You agree not to, or attempt or assist another person to, copy, violate, circumvent, reverse-engineer, decompile, disassemble, or otherwise tamper with the Apps or Services.

Exhibit 51, Screen capture of Panini NFL Blitz App, *Terms of Use Agreement* (Feb. 4, 2022) (annotation added).

134. By way of further example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' "Wild Card" CMI. See, for example, the following:

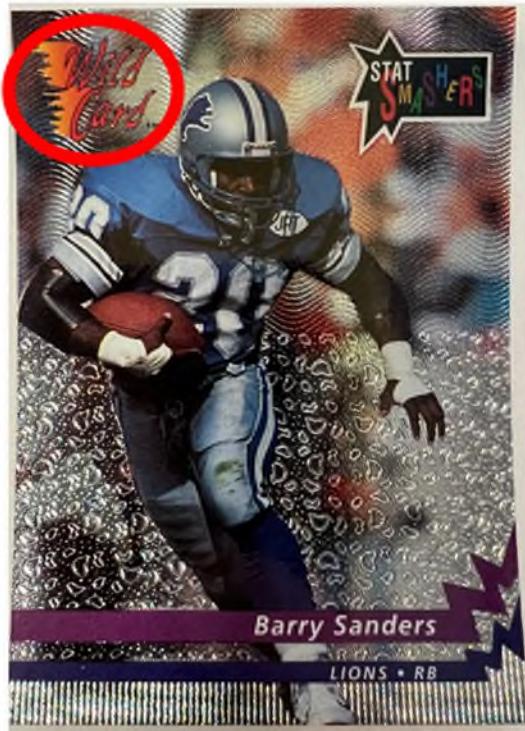


Barry Sanders AAA Sports Copyrighted Work (Exhibit 8), excerpt, front of card (annotation added).

135. With respect to AAA Sports' "Wild Card" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' "Wild Card" CMI from all 2020 Panini Digital Infringing Cards and in its place has provided false CMI by placing its own name and notification on each card.

136. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification. See, for example, the following:

Front of Cards



Barry Sanders AAA Sports Copyrighted Work (Exhibit 8) (annotations added).



2020 Panini Digital Infringing Card (Exhibit 37 at 9) (annotations added).

137. Defendant Panini commits the same violation with respect to purchased versions of the 2020 Panini Digital Infringing Cards. See, for example, the following:

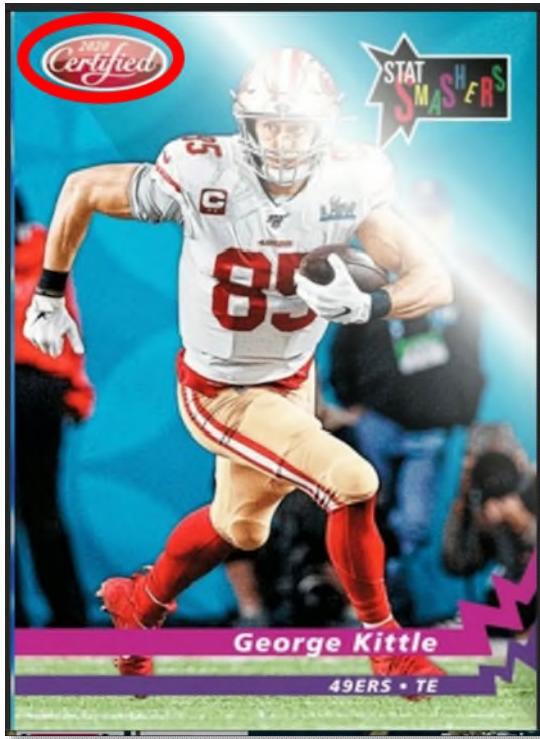
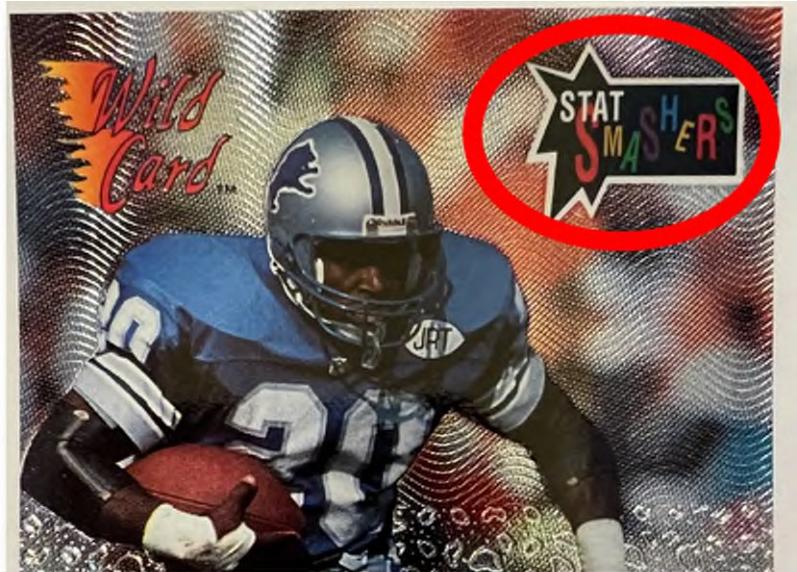


Exhibit 39, Excerpt of front of 2020 Panini Digital Infringing Card purchased version (annotation added).

138. All AAA Sports Wild Card's Stat Smashers also include AAA Sports' "Stat Smashers" CMI. See, for example, the following:



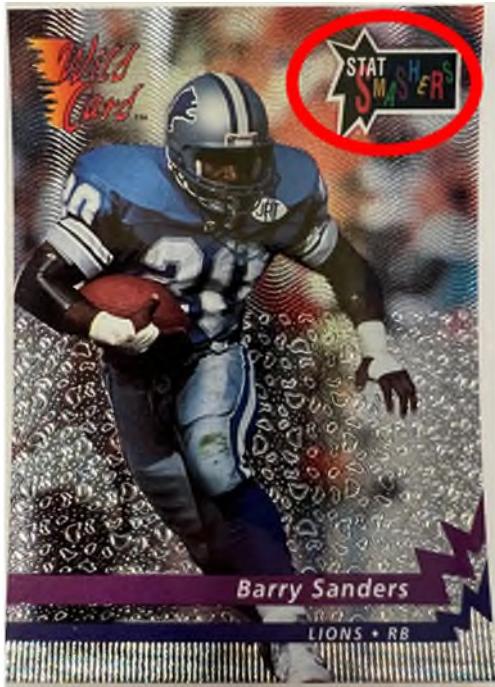
Barry Sanders AAA Sports Copyrighted Work (Exhibit 8), excerpt, front of card (annotation added).

139. With respect to AAA Sports’ “Stat Smashers” CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports’ CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports’ authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports’ authority. Defendant Panini has done so by placing AAA Sports’ “Stat Smashers” CMI on all 2020 Panini Digital Infringing Cards in association with its own name and notification.

140. Additionally, or in the alternative, Defendant Panini has removed AAA Sports’ other CMI described herein, such as AAA Sports’ “Wild Card” CMI, from AAA Sports’ Copyrighted Works and replaced such CMI with Panini’s own name and notification on each AAA Sports’ Copyrighted Work that includes the “Stat Smashers” CMI.

141. See, for example, the following:

Front of Cards



Barry Sanders AAA Sports Copyrighted Work (Exhibit 8) (annotation added).



Barry Sanders 2020 Panini Digital Infringing Card (Exhibit 37 at 9) (annotation added).

142. Defendant Panini commits the same violation with respect to the purchased versions of the 2020 Panini Digital Infringing Cards. See, for example, the following:

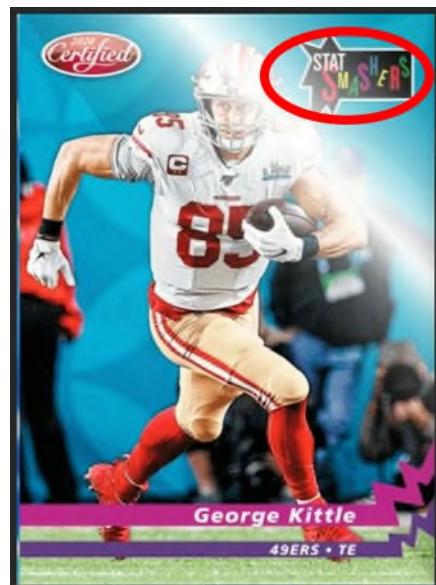


Exhibit 39, excerpt of front of 2020 Panini Digital Infringing Card purchased version (annotation added).

143. By way of additional example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card and which constitutes CMI. See, for example, the following:



Exhibits 12 and 8, Joe Montana '92 and Barry Sanders AAA Sports Copyrighted Works (annotations added).

144. With respect to AAA Sports' double stripes CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' double stripes CMI on all 2020 Panini Digital Infringing Cards in association with its own name and notification.

145. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the double stripes CMI. See, for example, the following:

Front of Cards



Barry Sanders AAA Sports Copyrighted Work (Exhibit 8) (annotation added).

Barry Sanders 2020 Panini Digital Infringing Card (Exhibit 37 at 9) (annotation added).

146. Defendant Panini commits the same violation with respect to the purchased versions of the 2020 Panini Digital Infringing Cards. See, for example, the following:



Exhibit 39, excerpt of front of 2020 Panini Digital Infringing Card purchased version (annotation added).

147. Upon information and belief, Defendant Panini has made available for sale many copies of each of the 24 cards in its 2020 Panini Digital Infringing Card release for both versions (purchased and preview form).

148. Upon information and belief, Defendant Panini has distributed each of the 24 cards in its 2020 Panini Digital Infringing Card release to each of its NFL Blitz mobile app users, both as individual cards as well as a set shown in the preview screen of its mobile app.

149. Upon information and belief, Defendant Panini has committed these acts with respect to each individual 2020 Panini Digital Infringing Card when selected and viewed by a user of the Panini NFL Blitz mobile app as well as with respect to the all 2020 Panini Digital Infringing Cards shown on the preview screen of the mobile app. See, for example, the following:



Exhibit 35 on left and Exhibit 37 at 9 on right, Screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022).

150. Upon information and belief, Defendant Panini has distributed for sale and for promotional purposes all 2020 Panini Digital Infringing Cards with such violations under the DMCA. Discovery is expected to disclose the exact number of times Panini has committed and continues to commit such violations and the number of times it has distributed and continues to distribute such CMI knowing that the CMI has been removed or altered and/or distributed copies of works knowing that the CMI has been removed or altered without authority from AAA Sports.

### **3. DMCA Violations in Printing Plates of AAA Sports Wild Card's Stat Smashers**

151. The following provides examples of Defendant Panini's DMCA violations in printing plates related to AAA Sports Wild Card's Stat Smashers. As discussed above, Panini's

Unauthorized copies in the form of printing plates of AAA Sports' Copyrighted Works mirror the 2020 Panini Infringing Cards in physical form. As such, Panini's DMCA violations based on its printing plates are similar to its DMCA violations based on its physical cards. These examples are not limiting. Discovery is expected to disclose the manner in which Defendant Panini has committed such violations, the number of such acts, and the context within which Panini has committed such acts.

152. For example, as discussed above, all AAA Sports Wild Card's Stat Smashers include CMI in the form of a copyright notice, "© Copyright [year], AAA Sports, Inc. All Rights Reserved." See, for example, the following:



Joe Montana '93 AAA Sports Copyrighted Work (Exhibit 13), excerpt (annotation added).

153. With respect to AAA Sports' copyright notification CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports'

copyright notice from all 2020 Panini Infringing Plates and has in its place provided false CMI by placing its own name and notification on each plate. See, for example, the following:



Exhibit 41, 2020 Panini Infringing Plate (back) (annotation added).

154. For example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' "Wild Card" CMI. See, for example, the following:

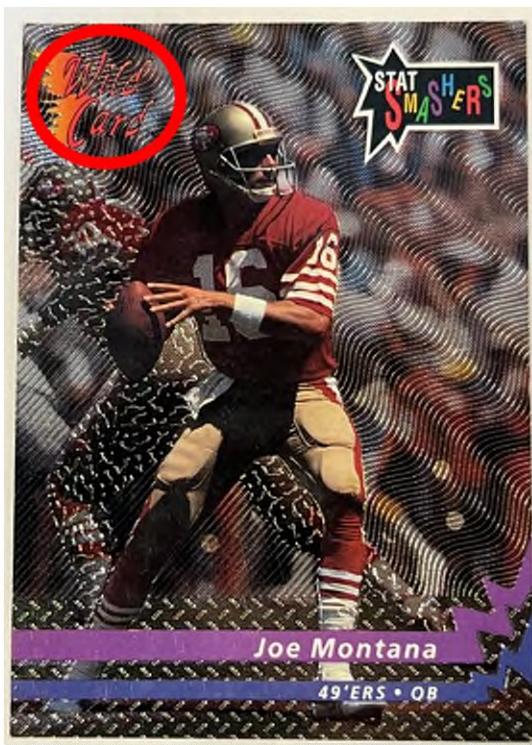


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12), excerpt, front of card (annotation added).

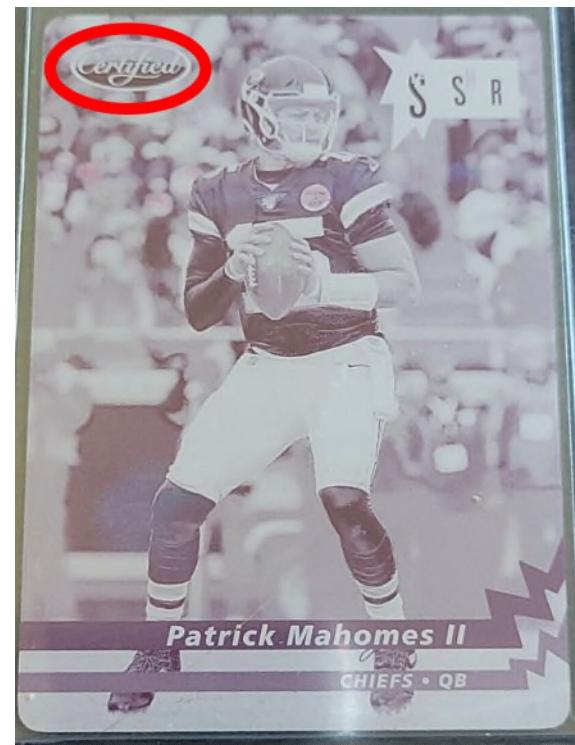
155. With respect to AAA Sports' "Wild Card" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI,

distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' "Wild Card" CMI from all 2020 Panini Infringing Plates and has in its place provided false CMI by placing its own name and notification on each card.

156. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' "Wild Card" CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification. See, for example, the following:

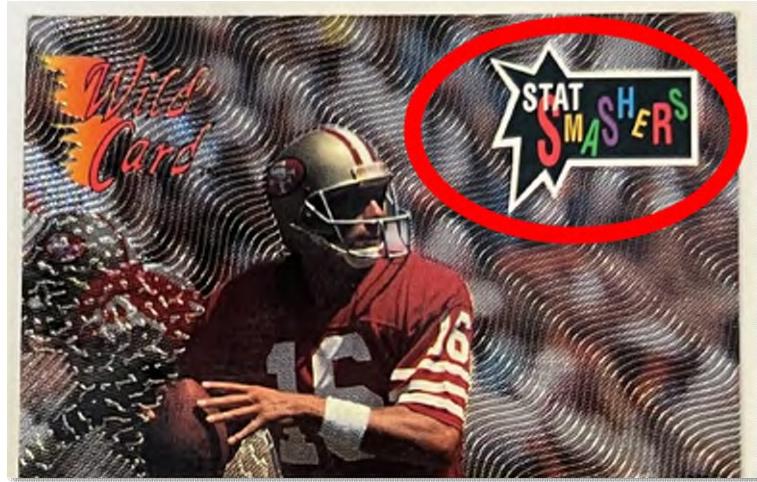


Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12) (annotation added).



2020 Panini Infringing Plate card (Exhibit 41) (annotation added).

157. All AAA Sports Wild Card's Stat Smashers also include AAA Sports' "Stat Smashers" CMI. See, for example, the following:



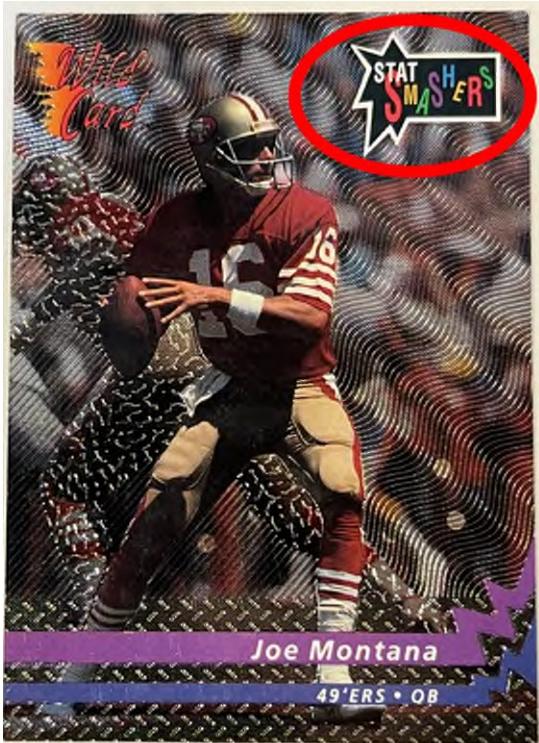
Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12), excerpt, front of card (annotation added).

158. With respect to AAA Sports' "Stat Smashers" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' "Stat Smashers" CMI on all 2020 Panini Infringing Plates in association with its own name and notification.

159. Additionally, or in the alternative, Defendant Panini has altered AAA Sports' "Stat Smashers" CMI by modifying elements of its artwork and distributing such altered CMI and/or copies of the 2020 Panini Infringing Plates knowing that CMI has been removed or altered without AAA Sports' authority.

160. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the "Stat Smashers" CMI.

161. See, for example, the following:



Joe Montana '92' AAA Sports Copyrighted Work (Exhibit 12) (annotation added).



2020 Panini Infringing Plate card (Exhibit 41) (annotation added).

162. Additionally, Defendant Panini has provided false CMI and/or distributed CMI that is false by placing AAA Sports' "Stat Smashers" CMI on the back of all 2020 Panini Infringing Plates. See, for example, the following:



Exhibit 41, 2020 Panini Infringing Plate, back of plate (annotation added).

163. By way of additional example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card's Stat Smashers and which constitutes CMI. See, for example, the following:

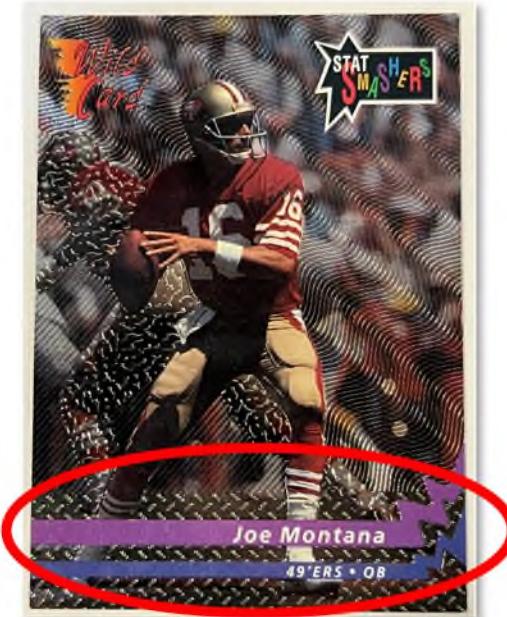


Exhibits 12 and 8, Joe Montana '92 and Barry Sanders AAA Sports Copyrighted Works, front of cards (annotations added).

164. With respect to AAA Sports' double stripes CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' double stripes CMI on all 2020 Panini Infringing Plates in association with its own name and notification.

165. Additionally, or in the alternative, Defendant Panini has altered AAA Sports' "Stat Smashers" CMI by modifying elements of its artwork and distributing such altered CMI and/or copies of the 2020 Panini Infringing Plates knowing that CMI has been removed or altered without AAA Sports' authority.

166. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the double stripes CMI. See, for example, the following:



Joe Montana '92 AAA Sports Copyrighted Work (Exhibit 12) (annotation added).



2020 Panini Infringing Plate card (Exhibit 41) (annotation added).

167. Upon information and belief, Defendant Panini has committed such violations with respect to all 2020 Panini Infringing Plates.

168. Upon information and belief, Defendant Panini has distributed for sale and for promotional purposes all 2020 Panini Infringing Plates with such violations under the DMCA. Discovery is expected to disclose the exact number of times Panini has committed such violations and the number of times it has distributed such CMI knowing that the CMI has been removed or altered and/or distributed copies of works knowing that the CMI has been removed or altered without authority from AAA Sports.

#### **4. DMCA Violations in Printed Publications of AAA Sports Wild Card's Stat Smashers**

169. The following provides examples of Defendant Panini's DMCA violations in printed publications related to AAA Sports Wild Card's Stat Smashers. As discussed above, Panini's unauthorized copies in printed publications of AAA Sports' Copyrighted Works mirror the 2020 Panini Infringing Cards in physical form. As such, Panini's DMCA violations based on

its printed publications is similar to its DMCA violations based on its physical cards. These examples are not limiting. Discovery is expected to disclose the manner in which Defendant Panini has committed such violations, the number of such acts, and the context within which Panini has committed such acts.

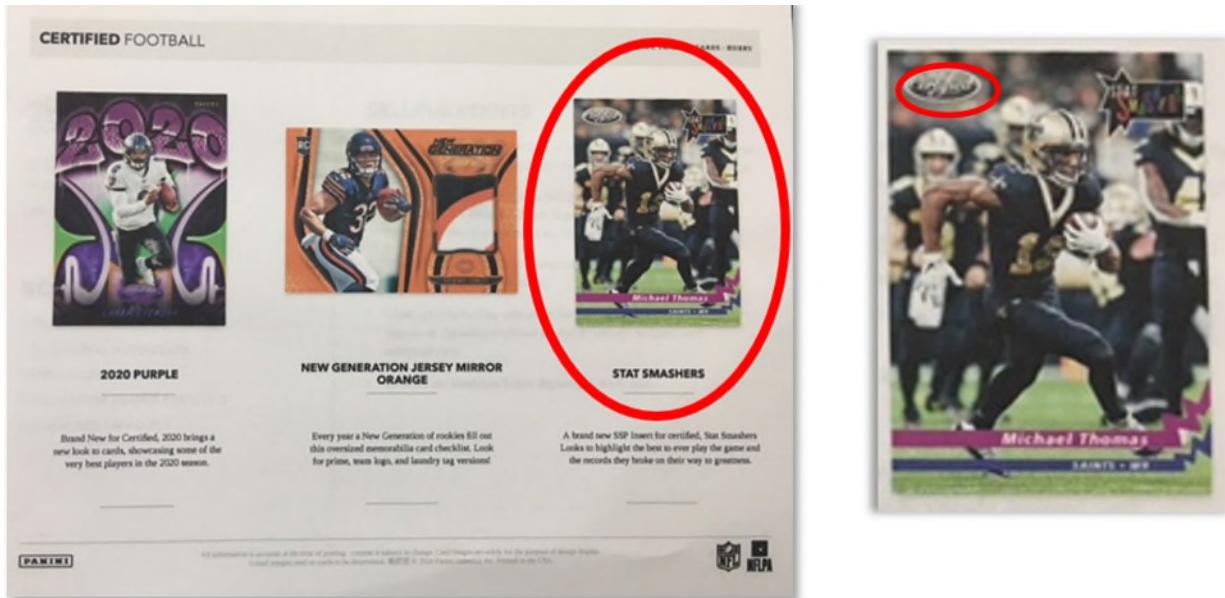
170. For example, as discussed above, all AAA Sports Wild Card's Stat Smashers include AAA Sports' "Wild Card" CMI. See, for example, the following:



Barry Sanders AAA Sports Copyrighted Work (Exhibit 8), excerpt of front of card (annotation added).

171. With respect to AAA Sports' "Wild Card" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' "Wild Card" CMI from all 2020 Panini Infringing Printed Publications and has in its place provided false CMI by placing its own name and notification on each card.

172. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' "Wild Card" CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification. See, for example, the following:



Exhibits 43 and 23 (annotation added).

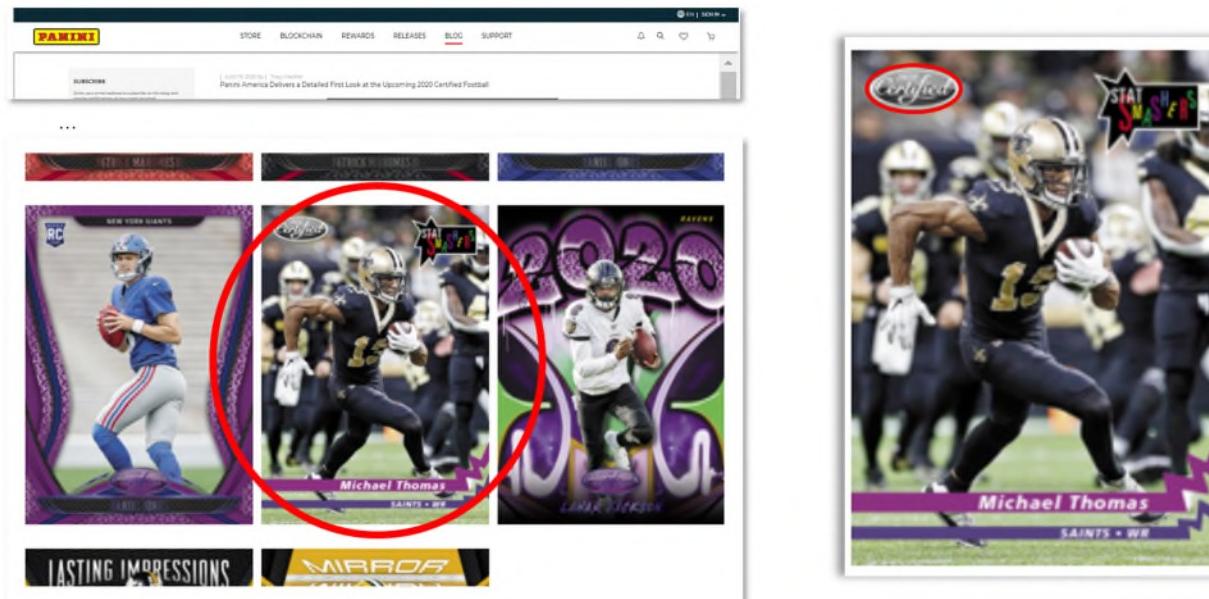
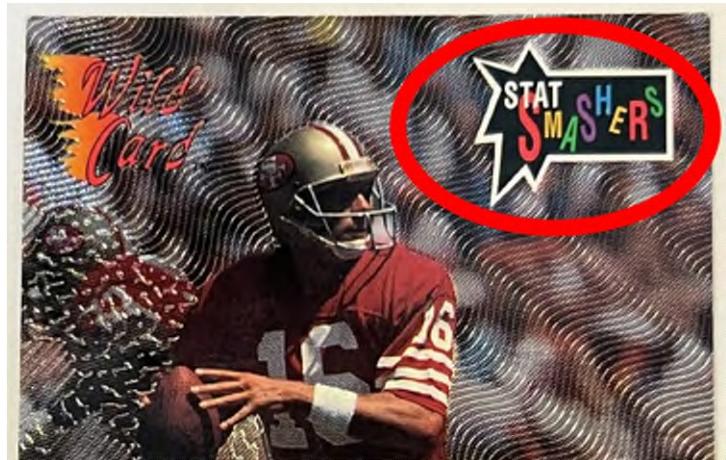


Exhibit 44, *Panini America Delivers a Detailed First Look at the Upcoming 2020 Certified Football*, Panini Blog (June 19, 2020) (annotation added).

173. All AAA Sports Wild Card's Stat Smashers also include AAA Sports' "Stat Smashers" CMI. See, for example, the following:

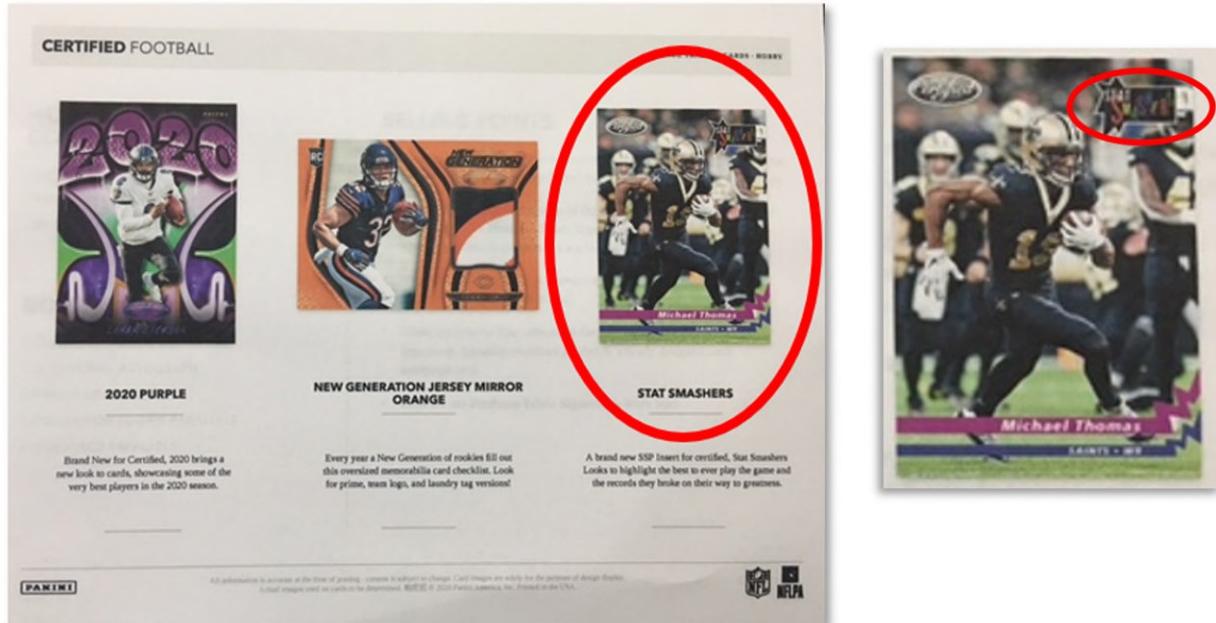


Joe Montana '92 Copyrighted Work (Exhibit 12), excerpt of front of card (annotation added).

174. With respect to AAA Sports' "Stat Smashers" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' "Stat Smashers" CMI on all 2020 Panini Infringing Printed Publications in association with its own name and notification.

175. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the "Stat Smashers" CMI.

176. See, for example, the following:



Exhibits 43 and 23 (annotation added).

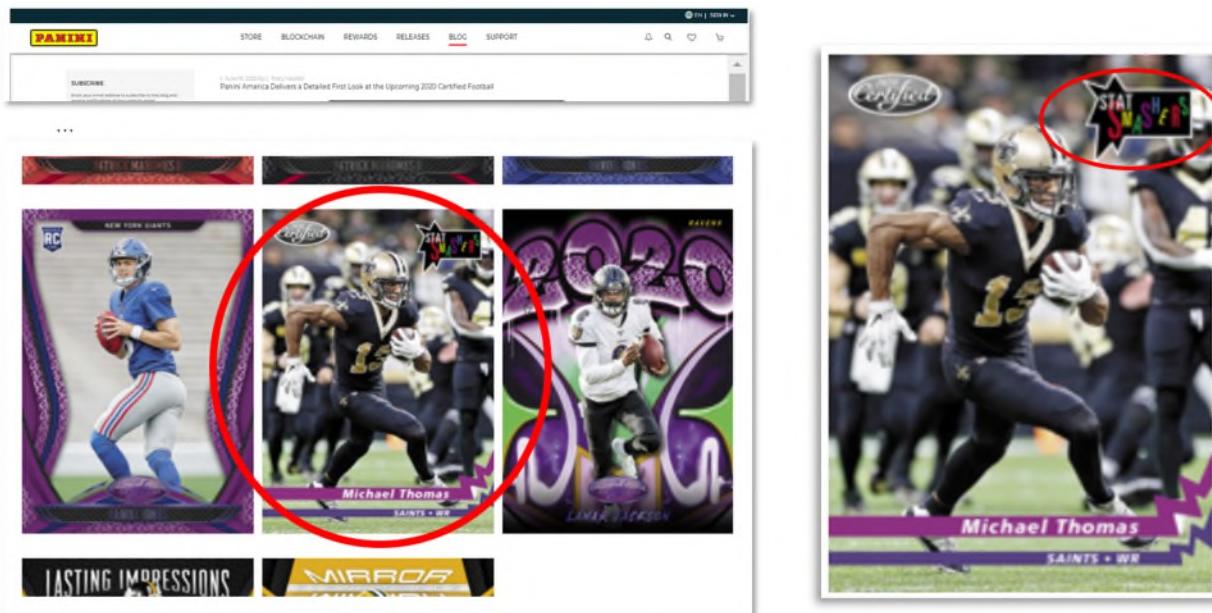


Exhibit 44 (annotation added).

177. By way of additional example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card's Stat Smashers and which constitutes CMI. See, for example, the following:



Exhibits 12 and 8, Joe Montana '92 and Barry Sanders AAA Sports Copyrighted Works (annotations added).

178. With respect to AAA Sports' double stripes CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' double stripes CMI on all 2020 Panini Infringing Printed Publications in association with its own name and notification.

179. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the double stripes CMI. See, for example, the following:

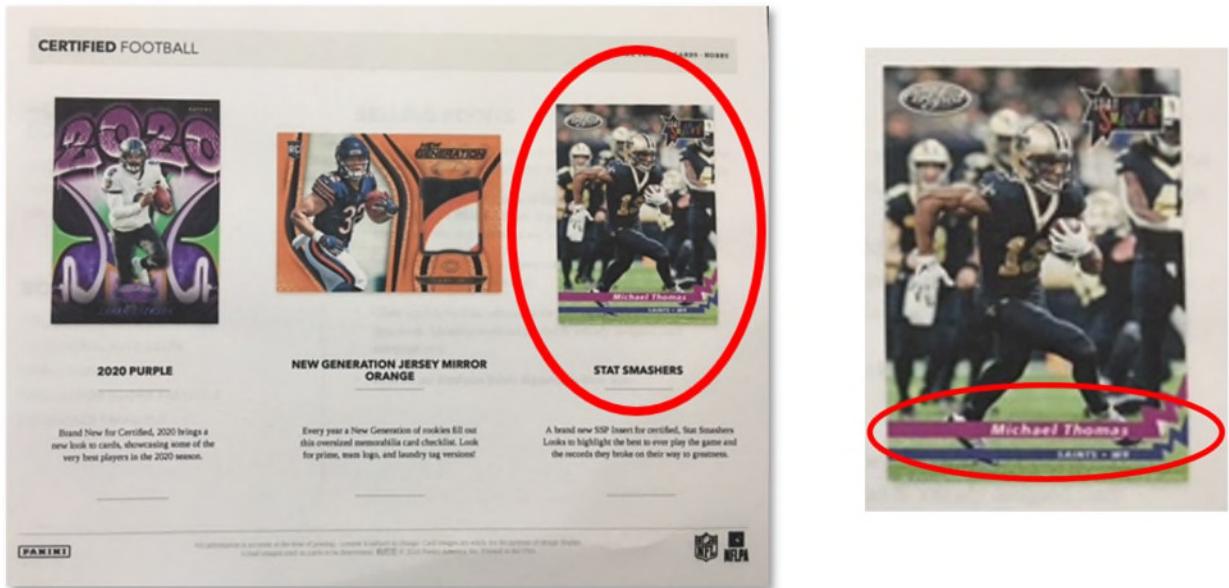


Exhibit 43 and 23 (annotation added).

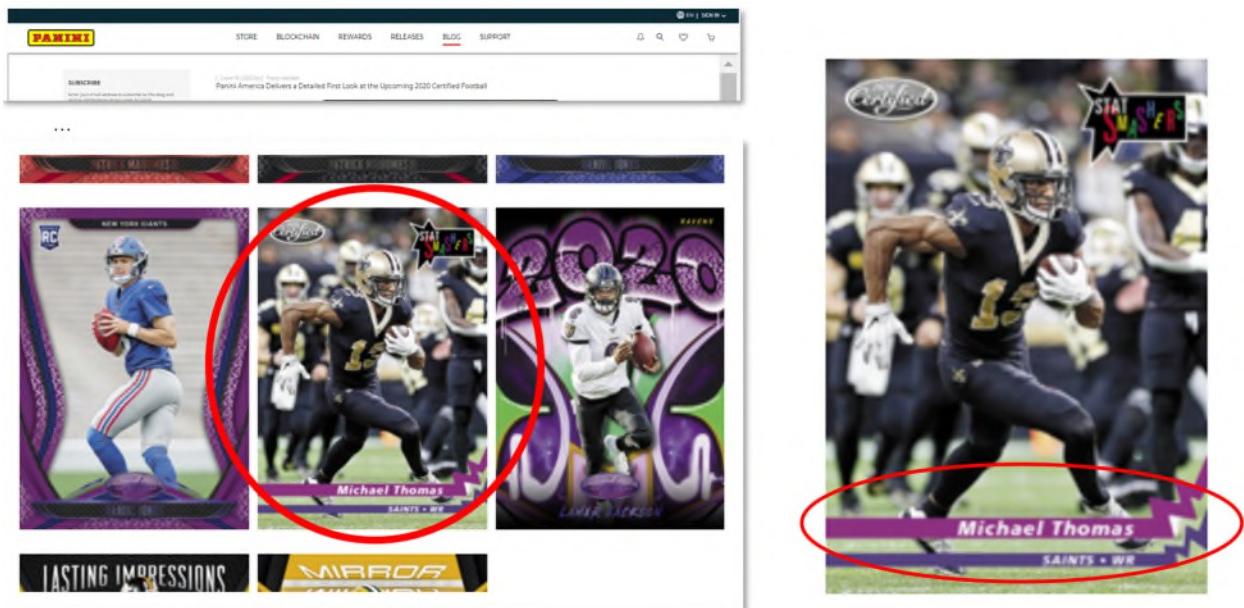


Exhibit 44 (annotation added).

180. Upon information and belief, Defendant Panini has committed such violations with respect to all 2020 Panini Infringing Printed Publications.

181. Upon information and belief, Defendant Panini has distributed for sale and for promotional purposes all 2020 Panini Infringing Printed Publications with such violations under the DMCA. Discovery is expected to disclose the exact number of times Panini has committed

such violations and the number of times it has distributed such CMI knowing that the CMI has been removed or altered and/or distributed copies of works knowing that the CMI has been removed or altered without authority from AAA Sports.

**B. Violations of the DMCA Based on Panini's Unauthorized Derivative Works of AAA Sports' Copyrighted Works**

182. As discussed above, Defendant Panini makes unauthorized derivative works of AAA Sports' Copyrighted Works in various forms, including physical trading cards and digital trading cards. With respect to each of these types of unauthorized derivative works, Defendant Panini has violated the DMCA under 17 U.S.C. § 1202 (a) and (b).

**1. DMCA Violations in Physical Trading Cards of AAA Sports Wild Card's Stat Smashers**

183. The following provides examples of Defendant Panini's DMCA violations in physical trading cards related to AAA Sports Wild Card's Stat Smashers. These examples are not limiting. Discovery is expected to disclose the manner in which Defendant Panini has committed such violations, the number of such acts, and the context within which Panini has committed such acts.

184. For example, as discussed above, all AAA Sports Wild Card's Stat Smashers include CMI in the form of a copyright notice, "© Copyright [year], AAA Sports, Inc. All Rights Reserved."

185. With respect to AAA Sports' copyright notification CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports'

copyright notice from all 2021 Panini Infringing Cards and has in its place provided false CMI by placing its own name and notification on each card.

186. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' copyright notice from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name, alleged copyright notice, and notification.

187. By way of further example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' "Wild Card" CMI, as previously shown above.

188. With respect to AAA Sports' "Wild Card" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' "Wild Card" CMI from all 2021 Panini Infringing Cards and has in its place provided false CMI by placing its own name and notification on each card.

189. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' "Wild Card" CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification.

190. All AAA Sports Wild Card's Stat Smashers also include AAA Sports' "Stat Smashers" CMI.

191. With respect to AAA Sports' "Stat Smashers" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered

without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' "Stat Smashers" CMI on all 2021 Panini Infringing Cards in association with its own name and notification.

192. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI and AAA Sports' copyright notification CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the "Stat Smashers" CMI.

193. In yet another example, as discussed above, all of AAA Sports' Copyrighted Works include a unique numbering system that serves as CMI associated with AAA Sports. As discussed above, AAA Sports' CMI includes the "SS" designation, which stands for Stat Smashers, as well as the "SS" designation with a prefix indicating a regional division, such as the Western Division or "WSS" or Central Division or "CSS."

194. With respect to AAA Sports' numbering system CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' number system CMI from all 2021 Panini Infringing Cards and has in its place provided false CMI by placing its own numbering on each card that closely resembles and is substantially the same as AAA Sports' unique numbering system.

195. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' numbering system CMI from AAA Sports' Copyrighted Works and has in its place provided false

CMI by placing its own numbering on each card that closely resembles and is substantially the same as AAA Sports' unique numbering system.

196. By way of additional example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card's Stat Smashers and which constitutes CMI, as discussed above.

197. With respect to AAA Sports' double stripes CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' double stripes CMI on all 2021 Panini Infringing Cards in association with its own name and notification.

198. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI and AAA Sports' copyright notification CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the double stripes CMI.

199. These examples include, but are not limited, to the following:



Jerry Rice AAA Sports Copyrighted Work (Exhibit 11) front and back views on left (annotations added); Jerry Rice 2021 Panini Infringing Card front and back views (Exhibit 46) on right (annotations added).

200. Additionally, Defendant Panini has provided false CMI and/or distributed CMI that is false by placing AAA Sports' "Stat Smashers" CMI on all boxes that may include the 2020 Panini Infringing Cards. See, for example, the following:



Exhibit 52, excerpt images of front (top left) and back (bottom left and right) of 2021 Panini Certified Football release box (highlighting added).

201. Upon information and belief, Defendant Panini has committed such violations with respect to all 2021 Panini Infringing Cards.

202. Upon information and belief, Defendant Panini has distributed for sale and for promotional purposes all 2021 Panini Infringing Cards with such violations under the DMCA. Discovery is expected to disclose the exact number of times Panini has committed such violations and the number of times it has distributed such CMI knowing that the CMI has been removed or altered and/or distributed copies of works knowing that the CMI has been removed or altered without authority from AAA Sports.

## **2. DMCA Violations in Digital Trading Cards of AAA Sports Wild Card's Stat Smashers**

203. The following provides examples of Defendant Panini's DMCA violations in digital trading cards related to AAA Sports Wild Card's Stat Smashers. As discussed above, Panini's unauthorized derivative works in digital form of AAA Sports' Copyrighted Works mirror the 2021 Panini Infringing Cards in physical form. As such, Panini's DMCA violations based on its digital cards are similar to its DMCA violations based on its physical cards. These examples are not limiting. Discovery is expected to disclose the manner in which Defendant Panini has committed such violations, the number of such acts, and the context within which Panini has committed such acts.

204. For example, as discussed above, all AAA Sports Wild Card's Stat Smashers include CMI in the form of a copyright notice, "© Copyright [year], AAA Sports, Inc. All Rights Reserved."

205. With respect to AAA Sports' copyright notification CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' copyright notice from all 2021 Panini Digital Infringing Cards and has in its place provided false CMI by placing its own name and notification on each card.

206. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' copyright notice from AAA Sports' Copyrighted Works and in its place has provided false CMI by placing its own name and notification.

207. See, for example, the following:

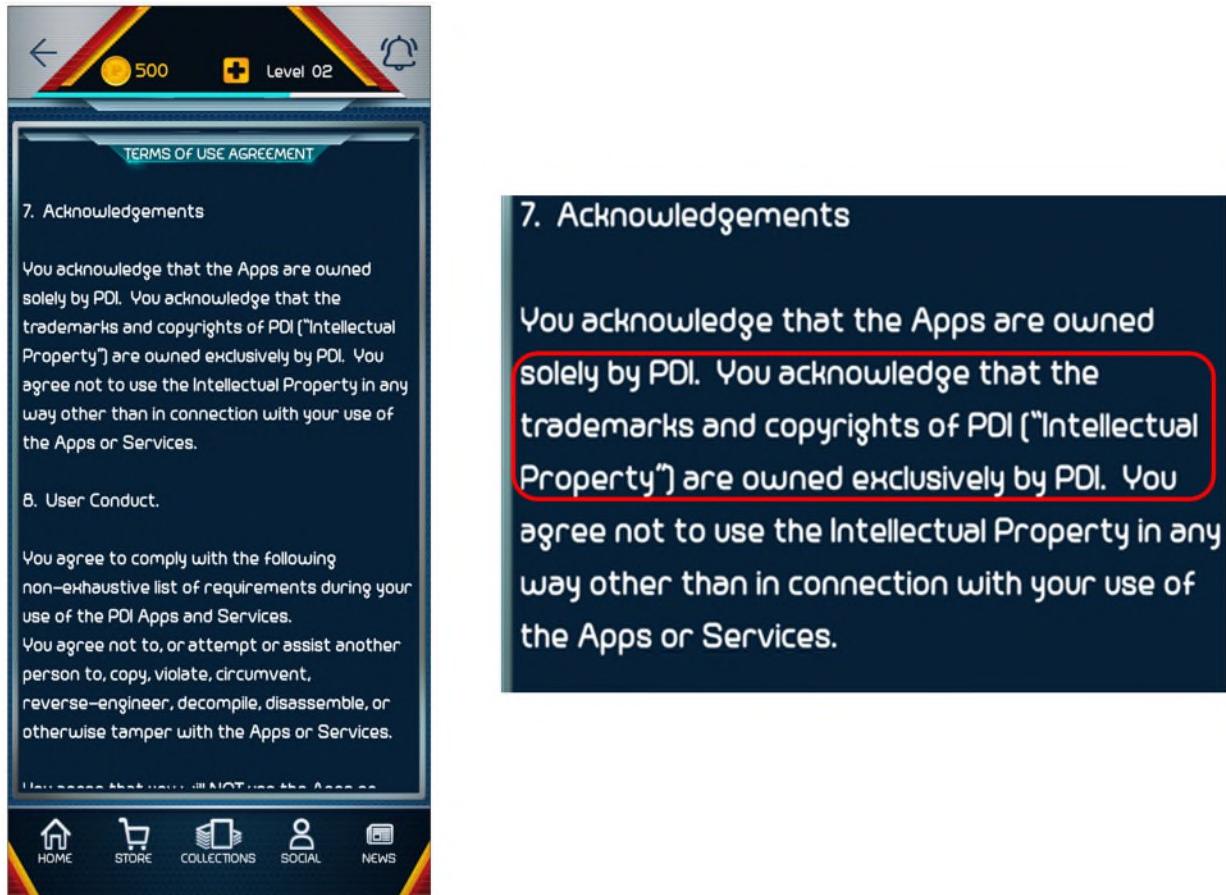


Exhibit 51, Screen capture of Panini NFL Blitz App, *Terms of Use Agreement* (Feb. 4, 2022) (annotation added).

208. By way of further example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' "Wild Card" CMI, as previously shown above.

209. With respect to AAA Sports' "Wild Card" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by removing AAA Sports' "Wild Card" CMI from all 2021 Panini Digital Infringing Cards and has in its place provided false CMI by placing its own name and notification on each card.

210. Additionally, or in the alternative, Defendant Panini has removed AAA Sports Wild Card's CMI from AAA Sports' Copyrighted Works and has in its place provided false CMI by placing its own name and notification.

211. All AAA Sports Wild Card's Stat Smashers also include AAA Sports' "Stat Smashers" CMI.

212. With respect to AAA Sports' "Stat Smashers" CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports' authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' "Stat Smashers" CMI on all 2021 Panini Digital Infringing Cards in association with its own name and notification.

213. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI and AAA Sports' copyright notification CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the "Stat Smashers" CMI.

214. By way of additional example, all AAA Sports Wild Card's Stat Smashers include AAA Sports' unique double stripes, which has become known as a symbol of AAA Sports Wild Card's Stat Smashers and which constitutes CMI, as discussed above.

215. With respect to AAA Sports' double stripes CMI, Defendant Panini has (a) provided false CMI and/or distributed CMI that is false and/or (b) removed or altered AAA Sports' CMI, distributed CMI knowing that the CMI has been removed or altered without AAA Sports'

authority, and/or distributed copies of works knowing that CMI has been removed or altered without AAA Sports' authority. Defendant Panini has done so by placing AAA Sports' double stripes CMI on all 2021 Panini Digital Infringing Cards in association with its own name and notification.

216. Additionally, or in the alternative, Defendant Panini has removed AAA Sports' other CMI described herein, such as AAA Sports' "Wild Card" CMI and AAA Sports' copyright notification CMI, from AAA Sports' Copyrighted Works and replaced such CMI with Panini's own name and notification on each AAA Sports' Copyrighted Work that includes the double stripes CMI.

217. These examples include, but are not limited, to the following. Defendant Panini commits the same violation with respect to purchased versions of the 2021 Panini Digital Infringing Cards (not shown here):



Jerry Rice AAA Sports Copyrighted Work (Exhibit 11) on left and Jerry Rice 2021 Panini Digital Infringing Card (Exhibit 49 at 9) on right (front of cards, annotated).

218. Upon information and belief, Defendant Panini has made available for sale many copies of each of the 25 cards in its 2021 Panini Digital Infringing Card release for both versions (purchased and preview form).

219. Upon information and belief, Defendant Panini has distributed each of the 25 cards in its 2021 Panini Digital Infringing Card release to each of its NFL Blitz mobile app users, both as individual cards as well as a set shown in the preview screen of its mobile app.

220. Upon information and belief, Defendant Panini has committed the above described DMCA violations with respect to each individual 2021 Panini Digital Infringing Card when selected and viewed by a user of the Panini NFL Blitz mobile app as well with respect to the all

2021 Panini Digital Infringing Card shown on the preview screen of the mobile app. See, for example, the following:

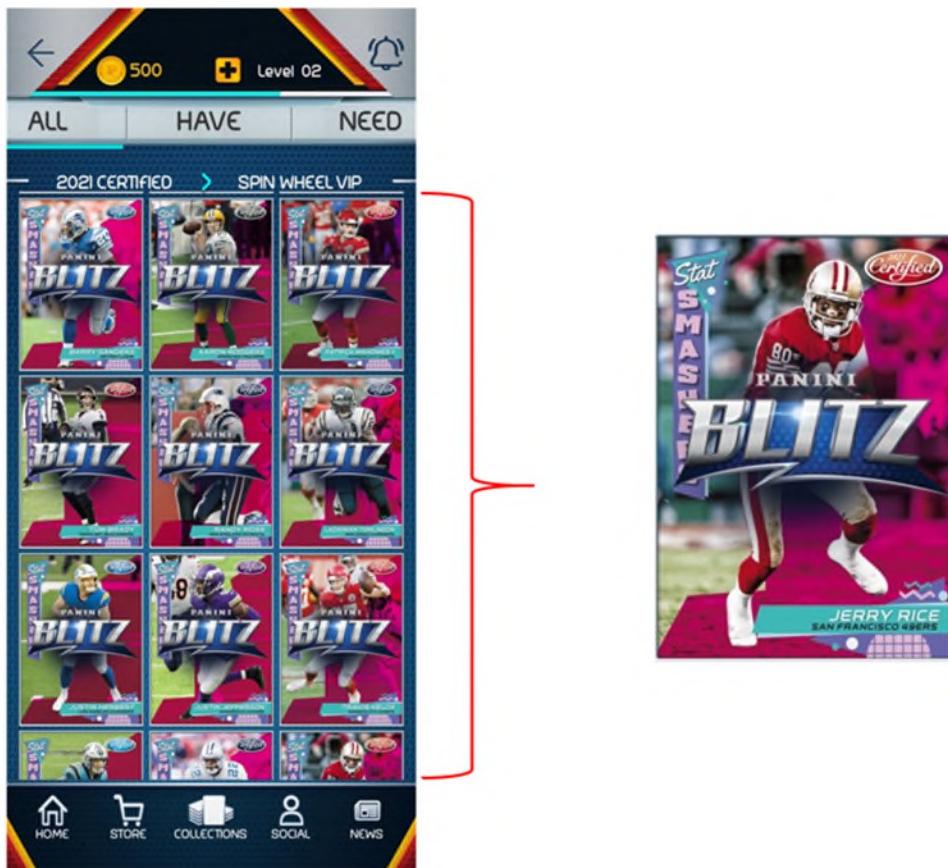


Exhibit 48 on left and Exhibit 49 at 9 on right, screen capture of Panini NFL Blitz mobile app (Feb. 4, 2022).

221. Upon information and belief, Defendant Panini has distributed for sale and for promotional purposes all 2021 Panini Digital Infringing Cards with such violations under the DMCA. Discovery is expected to disclose the exact number of times Panini has committed such violations and the number of times it has distributed such CMI knowing that the CMI has been removed or altered and/or distributed copies of works knowing that the CMI has been removed or altered without authority from AAA Sports.

**VII. COUNT ONE**  
**COPYRIGHT INFRINGEMENT UNDER THE COPYRIGHT ACT**  
**(17 U.S.C. §§ 501 ET SEQ.)**

222. Plaintiff alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

223. AAA Sports is the sole owner of all right, title and interest to the Copyrighted Works and of all corresponding copyrights and Certificates of Registration. As a copyright holder pertaining to the Copyrighted Works, AAA Sports has the exclusive right, subject to certain limitations, to reproduce the work, prepare derivative works, and distribute copies of the work. 17 U.S.C. § 106(1)-(6). “Anyone who violates any of the exclusive rights of the copyright owner ... is an infringer of the copyright.” 17 U.S.C. § 501(a).

224. The Copyrighted Works consist of material original to AAA Sports and each is copyrightable subject matter.

225. Defendant Panini had access to and copied, reproduced, distributed, adapted, and/or publicly displayed copies of, and/or otherwise exploited AAA Sports’ Copyrighted Works for financial gain and without AAA Sports’ consent or authorization, in violation of AAA Sports’ copyrights.

226. Defendant Panini incorporated identical portions of AAA Sports’ Copyrighted Works into other works for financial gain and without AAA Sports’ approval or authorization, in violation of AAA Sports’ copyrights.

227. Defendant Panini created derivative works of AAA Sports’ Copyrighted Works for financial gain and without AAA Sports’ consent or authorization, in violation of AAA Sports’ copyrights.

228. Defendant Panini's conduct constitutes direct infringement of the Copyrighted Works and exclusive rights under copyright in violation of 17 U.S.C. §§ 501 *et seq.*

229. The infringement of the Copyrighted Works in and to each of the Copyrighted Works and in each and every form constitutes a separate and distinct act of infringement.

230. The acts of infringement by Defendant Panini have been willful, intentional, and purposeful, in reckless disregard of and with indifference to the rights of AAA Sports.

231. As a direct and proximate result of the Defendant Panini's actions, AAA Sports has suffered damages for which Plaintiff now sues on behalf of AAA Sports.

232. Pursuant to 17 U.S.C. § 504(b), Plaintiff is entitled to recover AAA Sports' actual damages and all profit Defendant Panini has made as a result of its wrongful conduct.

233. Alternatively, pursuant to 17 U.S.C. § 504(c), Plaintiff is entitled to AAA Sports' statutory damages between \$750 and \$30,000 per infringed work, and up to \$150,000 per infringed work as a result of Defendant Panini's willful and intentional conduct.

234. Pursuant to 17 U.S.C. § 505, Plaintiff requests an award of its full attorney fees and costs.

235. Plaintiff is further entitled to injunctive relief and an order compelling the impounding of all infringing materials. AAA Sports has no adequate remedy at law for Defendant Panini's wrongful conduct because, among other things: (a) AAA Sports' copyrights are unique and valuable property that have no readily determinable market value; (b) Defendant Panini's infringement harms AAA Sports such that AAA Sports could not be made whole by any monetary award; and (c) Defendant Panini's wrongful conduct, and the resulting harm to AAA Sports, is continuing.

## VIII. COUNT TWO

### **VIOLATION OF DMCA (17 U.S.C. §§ 1201-03 ET SEQ.)**

236. Plaintiff alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

237. 17 U.S.C. § 1202(c)(1) - (7) define CMI to include “the title and other information identifying the work, including the information set forth on a notice of copyright,” “name of, and other identifying information about, the author of a work,” “name of, and other identifying information about, the copyright owner of the work,” “terms and conditions for use of the work,” and “identifying numbers or symbols referring to such information or links to such information.”

238. As described above, Defendant Panini has provided CMI that is false and/or distributed or imported for distribution CMI that is false in violation of 17 U.S.C. § 1202 (a). Upon information and belief, Defendant Panini has done so knowingly and with the intent to induce, enable, facilitate, or conceal infringement.

239. Additionally, Defendant Panini has also, without the authority of AAA Sports, (1) intentionally removed and/or altered AAA Sports’ CMI, (2) distributed or imported for distribution CMI knowing that such CMI has been removed or altered without AAA Sports’ authority, and/or (3) distributed or imported for distribution copies of AAA Sports’ copyrighted works knowing that CMI has been removed and/or altered without authority of AAA Sports in violation of 17 U.S.C. § 1202 (b). Upon information and belief, Defendant Panini has done so knowing or having reasonable grounds to know that it will induce, enable, facilitate, or conceal infringement.

240. Defendant Panini's conduct has been willful and intentionally done with full knowledge of AAA Sports' copyright ownership and in conscious disregard of AAA Sports' rights.

241. As a direct and proximate result of Defendant Panini's actions, AAA Sports has suffered damages for which Plaintiff has brought this action on behalf of AAA Sports.

242. Pursuant to the 17 U.S.C. § 1203(c)(3), AAA Sports is entitled to its actual damages resulting from Defendant Panini's DMCA violations, together with the profits it earned not already taken into account.

243. Alternatively, pursuant to the 17 U.S.C. § 1203(c)(3), AAA Sports is entitled to statutory damages for Defendant Panini's willfully committed DMCA violation.

244. Pursuant to the 17 U.S.C. § 1203(b)(5), Plaintiff requests an award of its full attorney fees and costs.

#### **IX. REQUEST FOR IMPOUNDING AND DESTRUCTION OF ALL INFRINGING COPIES**

245. Plaintiff alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

246. Pursuant to 17 U.S.C. §§ 503(a)(1)(a) and 1203(b)(2), Plaintiff requests that the Court order the impounding, on such terms as it deems reasonable, of any unauthorized copy of AAA Sports' Copyrighted Works, digital copies and other materials that is in the custody or control of Defendant Panini and that the Court has reasonable cause to believe was involved in a violation.

247. Upon and as part of a final judgment in this matter, Plaintiff requests that the Court order the destruction of any unauthorized copy of AAA Sports' Copyrighted Works and other materials involved in any violation of AAA Sports' copyright protection rights and that are in the

custody or control of Defendant Panini or that have been impounded under the above paragraph. 17 U.S.C. §§ 503(b) and 1203(b)(6).

## **X. APPLICATION FOR PERMANENT INJUNCTION**

248. Plaintiff alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

249. Upon information and belief, Defendant Panini, unless enjoined, will continue to infringe AAA Sports' Copyrighted Works as described in this Complaint. All of these acts violate the Copyright Act and the DMCA.

250. These actions entitle AAA Sports to a permanent injunction enjoining Defendant Panini and its officers, agents, servants, employees, users, and attorneys, and all those persons in active concert or in participation with them from:

- (i) Any unauthorized use of the Copyrighted Works, including reproducing, distributing, adapting, publicly displaying, and/or creating derivative works the Copyrighted Works in an unauthorized manner;
- (ii) Representing that Defendant Panini's unauthorized products incorporating and/or altering part or all of AAA Sports' Copyrighted Works or any other materials created by Defendant Panini are in any way sponsored by, approved by, affiliated with, and/or originated by AAA Sports;
- (iii) Using any of AAA Sports' CMI in a manner that violates the DMCA;
- (iv) Otherwise infringing any rights of AAA Sports; and
- (v) Otherwise competing unfairly with AAA Sports or injuring its business reputation in any manner.

251. For these actions, there is no adequate remedy at law. Further, Plaintiff is substantially likely to prevail on the merits of these claims. The injury to AAA Sports greatly outweighs any injury to Defendant Panini that the requested injunction may cause. The balance of hardships tips strongly in favor of Plaintiff. Finally, the injunction will not disserve the public interest. Therefore, Plaintiff is entitled to permanent injunctive relief against Defendant Panini.

#### **XI. PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant Panini be cited to appear and answer and that after a hearing, the Court grant the following relief:

252. Order the impoundment pursuant to 17 U.S.C. §§ 503 and 509(a) of all infringing copies of AAA Sports' Copyrighted Works;

253. In accordance with 17 U.S.C. § 502 and 15 U.S.C. § 1116, issue a permanent injunction enjoining Defendant Panini and its officers, agents, servants, employees, users, dealers, distributors, direct accounts and attorneys, and all those persons in active concert or participation with Defendant Panini from the acts described in this Complaint;

254. Order Defendant Panini to provide an accounting of all financial gain related to Defendant Panini's infringement of AAA Sports' Copyrighted Works in accordance with 17 U.S.C. § 504(b) and violations of the DMCA under 17 U.S.C. § 1203(c)(2);

255. Enter judgment against Defendant Panini for statutory damages under 17 U.S.C. § 504(c), or alternatively, for AAA Sports' actual damages and Defendant Panini's profits under the Copyright Act (17 U.S.C. § 504(b));

256. Enter judgment against Defendant Panini for statutory damages under the DMCA (17 U.S.C. § 1203(c)(3)), or alternatively, for actual damages and Defendant Panini's profits under the DMCA (17 U.S.C. § 1203(c)(2));

257. In accordance with 17 U.S.C. §§ 505 and 1203(b)(5), award AAA Sports its reasonable attorney fees, costs, and expenses of this action;
258. Replevy of AAA Sports' property as described above;
259. Pre-judgment and post-judgment interest as provided by law; and
260. Such other and further relief at law or in equity as Plaintiff, on behalf of AAA Sports, may be justly entitled.

## **XII. DEMAND FOR TRIAL BY JURY**

261. Plaintiff demands a trial by jury on its claims alleged against Defendant Panini.

Dated: February 10, 2022

Respectfully submitted,

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